97

Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

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INDEX TO THE PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR

Making Laws and Regulations

FOR THE YEAR 1884.

PAGE.

A.

ABDUL JUBBAR. *See* JUBBAR.

ACT IV (B.C.) OF 1871. FURTHER AMENDMENT OF—
See Pooree Lodging-House Act Amendment Bill.

ACT IV (B.C.) OF 1876. FURTHER AMENDMENT OF—
See Calcutta Municipal Act Amendment Bill.

ACT VII (B.C.) OF 1878. AMENDMENT OF—
See Estates' Partition Act Amendment Bill.

ACT III (B.C.) OF 1879. AMENDMENT OF—
See Steam-Boilers and Prime-Movers Act Amendment Bill.

ACT I (B.C.) OF 1880. AMENDMENT OF—
See Calcutta Tramways Act Amendment Bill.

ACTING ADVOCATE-GENERAL. HON. A. PHILLIPS—took his seat on 6th December 1884.
Appointed to Select Committee on Bengal Local Self-Government Bill ... 170

ADVOCATE-GENERAL. (HON. G. C. PAUL)—
Bengal Municipal Act Amendment Bill 12, 14, 53, 55, 70, 84, 106, 108, 112, 120, 131, 134, 149, 156, 160, 161

ADJOURNMENT OF COUNCIL. *See* Council, adjournment of—

ALEXANDER. HON. W. L. (took his seat on 12th January 1884).
Bengal Municipal Act Amendment Bill 80

B.

BENGAL LOCAL SELF-GOVERNMENT BILL.
Mr. Beverley appointed to Select Committee 42
Preliminary Report of Select Committee *presented* 163
The Acting Advocate-General, Mr. Garrett, and Moulvie Abdul Jubbar added to Select Committee 170

PAGE

BENGAL MUNICIPAL ACT AMENDMENT BILL.
Further Report of Select Committee *presented* 1
Ditto ditto *considered* 9
Consideration of settlement of clauses *postponed* 11
Settlement of clauses 12
Bill passed 162

BEVERLEY. HON. H.—(took his seat on 12th January 1884)
Appointed to Select Committee on Bengal Local Self-Government Bill ... 42
Bengal Municipal Act Amendment Bill ... 26, 56, 73, 76, 78, 97, 99, 100, 101, 106, 112, 137, 142, 153, 156, 161

BUSINESS BEFORE THE COUNCIL. STATEMENT OF—
The President 166

C.

CALCUTTA MUNICIPAL ACT AMENDMENT BILL.
Leave to introduce 155
Read in Council and referred to Select Committee ... ... *ib.*
Report of Select Committee *considered* 163
Bill passed ... ... *ib.*

CALCUTTA TRAMWAYS ACT AMENDMENT BILL.
Leave to introduce 103
Read in Council and referred to Select Committee with instructions to report in a week 116
Report of Select Committee *presented* 131
Settlement of clauses 154
Bill passed 155

CHUNDER MADHUB GHOSE. *See* Ghose.

COLONEL THE HON. S. T. TREVOR. *See* Trevor.

COUNCIL. DIVISIONS OF—
Bengal Municipal Act Amendment Bill (on proposed amendment in section 8)... 26
(on proposed amendment to omit last clause of section 8) 61
" " in section 24) 72
" " in section 26) 78
" " in section 64) 95
" " in section 130) 101
" " in section 219) 121
" " in section 234) *ib.*
" " in section 15) 139
" " in section 103) 154
" " in the definition of the term "holding") ... 157
(on proposed amendment in section 100) 160
" " in first proviso of section 100) 162

PAGE.

COUNCIL. ADJOURNMENT OF—
The President 102
Sine die 165
COURSE OF LEGISLATION. STATEMENT OF—
The President 166

D.

DAMPIER. HON. H. L.—
Bengal Municipal Act Amendment Bill ... 12, 24, 38, 50, 55, 64, 66, 67, 71, 75, 84, 87, 89, 92, 94, 96, 110, 114, 119, 121, 128, 129, 134, 135, 138, 150, 152, 158
Estates' Partition Act Amendment Bill 5, 102
DE. HON. KUMAR BAIKANTO NATH—(took his seat on 12th January 1884)—
Bengal Municipal Act Amendment Bill ... 24, 38, 62, 69, 71, 73, 82, 90, 94, 96, 121, 123, 128, 148
Pooree Lodging-house Act Amendment Bill 8
DIVISIONS. *See* Council. Divisions of—
DOCKS. *See* Kidderpore Docks Bill.

E.

ESTATES' PARTITION ACT AMENDMENT BILL.
Report of Select Committee *presented* 5
Bill withdrawn 102

G.

GARRETT. HON. C. B.—(took his seat on 6th December 1884)—
Appointed to Select Committee on Bengal Local Self-Government Bill ... 170
Ditto ditto on Suburban Water-supply Bill ... 174
GHOSE. HON. BABU CHUNDER MADHUB—
Bengal Municipal Act Amendment Bill 11, 117, 120, 135, 147, 158

H.

HARBUNS SAHAI. *See* Sahai.
HOWRAH AND SUBURBAN MUNICIPAL POLICE BILL.
Leave to introduce 41
Read in Council and referred to Select Committee with instructions to report in a fortnight 68
Report of Select Committee *presented* 103
Settlement of clauses 115
Bill passed 163

I.

IRVING. HON. G.—(took his seat on 6th December 1884).
Appointed to Select Committee on Suburban Water-supply Bill 174

PAGE.

J.

JOY PROKASH LALL. *See* Lall.

JUBBAR. HON. MOULVIE ABDUL—(took his seat on 6th December 1884).
Appointed to Select Committee on Bengal Local Self-Government Bill ... 170

K.

KUMAR BAIKANTO NATH DE. *See* De.

KIDDERPORE DOCKS BILL.
Leave to introduce 178

L.

LALL. HON. JOY PROKASH—RAI BAHADUR. (took his seat on 6th December 1884).
Permanent Tenures Registration Bill 176

LOCAL SELF-GOVERNMENT. *See* Bengal Local Self-Government Bill.

M.

MACAULAY. HON. C. P. L.—
Bengal Local Self-Government Bill 42, 170
Bengal Municipal Act Amendment Bill 12, 14, 33, 39, 55, 64, 67, 73, 84, 91, 97, 105, 108, 128, 130, 136, 149
Calcutta Municipal Act Amendment Bill 155
Pooree Lodging-House Act Amendment Bill 7, 8, 11

MAHOMED YUSUF. *See* Yusuf.

MEMBERS. (*New*)—
Hon. W. L. Alexander (appointed 18th December 1883).
Hon. H. Beverley (appointed 4th January 1884).
Hon. C. B. Garrett (appointed 26th November 1884).
Hon. G. Irving (appointed 26th November 1884).
Hon. Moulvie Abdul Jubbar (appointed 15th November 1884).
Hon. Rai Joy Prokash Lall, Bahadur (appointed 17th November 1884).
Hon. A. P. MacDonnell (appointed 17th November 1884).
Hon. C. P. L. Macaulay (re-appointed 2nd December 1884).
Hon. A. B. Miller (appointed 3rd March 1884).
Hon. A. Phillips, Acting Advocate-General (appointed 1st November 1884).
Colonel the Hon. S. T. Trevor (re-appointed 2nd December 1884).

MILLER. HON. A. B.—(took his seat on 8th March 1884).
Appointed to Select Committee on Suburban Water-supply Bill 131
Bengal Municipal Act Amendment Bill 146

MUNICIPALITIES. *See* Bengal Municipal Act Amendment Bill.

N.

NEW MEMBERS. *See* Members.

P.

PARTITION OF ESTATES. *See* Estates' Partition Act Amendment Bill.

PAUL. HON. G. C.—*See* Advocate-General.

PAGE.

PERMANENT TENURE REGISTRATION BILL.
Leave to introduce 171
Read in Council 174
Referred to Select Committee 176

PHILLIPS. HON. A.—*See* Acting Advocate-General.

PRESIDENT. THE—(HON. AUGUSTUS RIVERS THOMPSON, C. S. I., C. I. E., LIEUTENANT-GOVERNOR OF BENGAL)—
Bengal Local Self-Government Bill 45
Bengal Municipal Act Amendment Bill 58, 65, 78, 80, 86, 93, 107, 135, 139, 151
Kidderpore Docks Bill 181
Permanent Tenures Registration Bill 176

PRIME-MOVERS. *See* Steam-Boilers and Prime-Movers Act Amendment Bill.

POOREE LODGING-HOUSE ACT AMENDMENT BILL.
Leave to introduce 7
Read in Council and referred to Select Committee with instructions to report in three weeks 8
Report of Select Committee *presented* 11
Bill passed (after suspension of rules) ... ... *ib.*

R.

REGISTRATION OF TENURES. *See* Permanent Tenures Registration Bill.

REYNOLDS. HON. H. J.—
Bengal Municipal Act Amendment Bill 1, 9, 13, 15, 47, 50, 61, 63, 65, 66, 68, 71, 77, 85, 88, 94, 95, 96, 97, 98, 100, 105, 106, 108, 110, 111, 118, 121, 123, 127, 128, 133, 138, 153, 160
Howrah and Suburban Municipal Police Bill 41, 68, 103, 115
Kidderpore Docks Bill 178
Permanent Tenures Registration Bill 171, 174, 176
Steam-Boilers and Prime-Movers Act Amendment Bill 176
Suburban Water-supply Bill 116, 174

RULES OF THE COUNCIL. Suspension of—
Calcutta Municipal Act Amendment Bill 155
Pooree Lodging-House Act Amendment Bill 11

S.

SAHAI. HON. BABU HARBUNS—
Bengal Municipal Act Amendment Bill 23, 37, 62, 70, 74, 83, 110, 114, 119, 145, 159, 161

STEAM-BOILERS AND PRIME-MOVERS ACT AMENDMENT BILL.
Leave to introduce 176

SUBURBAN MUNICIPAL POLICE. *See* Howrah and Suburban Municipal Police Bill.

PAGE.

SUBURBAN WATER-SUPPLY BILL.
Read in Council and referred to Select Committee 116
Mr. Miller appointed to Select Committee 131
Messrs. Garrett and Irving appointed to Select Committee 174

SUSPENSION OF RULES. *See* Rules of the Council.

T.

THOMPSON. HON. AUGUSTUS RIVERS, C. S. I., C. I. E., LIEUTENANT-GOVERNOR OF BENGAL.
See President.

TRAMWAYS. *See* Calcutta Tramways Act Amendment Bill.

TREVOR. COLONEL THE HON. S. T.—
Bengal Municipal Act Amendment Bill 93, 97, 106
Calcutta Tramways Act Amendment Bill 103, 116, 154

W.

WATER-SUPPLY. *See* Suburban Water-supply Bill.

Y.

YUSUF. HON. MOULVIE MAHOMED—
Bengal Municipal Act Amendment Bill 52, 66, 74, 76, 83, 91, 95, 98, 105, 109, 112, 113

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PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

Saturday, the 12th January 1884.

Present:

The HON. G. C. PAUL, C.I.E., *Advocate-General, Presiding.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel The HON. S. T. TREVOR, R.E.
The HON. H BEVERLEY.
The HON. J. E. CAITHNESS.
The HON. MAHOMED YUSUF.
The HON. HARBUNS SAHAI.
The HON. CHUNDER MADHUB GHOSE.
The HON. W. L. ALEXANDER.
The HON. KUMAR BOYKANTONATH DE.

New Members.

The HON. H. BEVERLEY, the HON. W. L. ALEXANDER, and the HON. KUMAR BOYKANTONATH DE took their seats in Council.

BENGAL MUNICIPALITIES.

The HON. MR. REYNOLDS presented the report of the Select Committee on the Bill to amend and consolidate the law relating to Municipalities. In doing so he said:—

This is a measure of very great importance, and no doubt the Council will wish for some further time to examine the details of the Bill before they are asked to take it into formal consideration with a view to its being passed. I therefore think that I shall be acting in conformity with the wishes of Hon. Members in not bringing forward to-day any motion founded upon the Bill, but I desire to take this opportunity to explain, somewhat more fully than

is possible within the limits of a Select Committee's report, the principal objects which the Bill is intended to attain, and the system upon which the Select Committee has proceeded in framing its provisions.

The Bill, as I mentioned when I asked the Council for leave to introduce it, is founded upon the existing Municipal Act, V of 1876. But it is in some respects wider, and in some respects narrower, in its scope, than the existing law. The present Act includes institutions of four kinds—Municipalities of the first and of the second class, unions, and stations. It provides for the introduction of the elective system into those Municipalities in which at least one-third of the resident rate-payers shall have signed a petition asking that the system may be introduced. It leaves the power of appointing the Chairman entirely in the hands of Government, and declares that the Magistrate of the District or of the Sub-Division shall ordinarily be the Chairman. There are at present no stations under the Act, the stations which formerly existed having been transferred to the second class of Municipalities; but there are a large number of unions, especially in the districts of Hooghly, Patna and Gya, and these are in many instances places which will more suitably come under the charge of the Boards to be established under the Bill for Local Self-Government than under the provisions of a Municipal Act. We have, therefore, narrowed the scope of the law by confining it to such towns as appeared fitted for the introduction of municipal institutions.

On the other hand, we have considerably extended the operation of the elective system. In the words of the Government of Bengal, "the time has come when the demand of the more intelligent classes for a large freedom in the management of their own concerns must be recognized and allowed," and a necessary step towards this recognition evidently lies in permitting the people to choose their own representatives. The restriction of the elective system to Municipalities in which one-third of the rate-payers might petition for it has not worked successfully. The object of the rule was to guard against the premature introduction of the system into Municipalities which might not really desire to have it, but its effect has been to exclude from the municipal franchise many places to which the privilege of election might properly have been conceded. Outside Calcutta, there are only three Municipalities (Burdwan, Serampore and Kishnaghur) in which the elective system is in force under the present law. In such towns as Patna, Hooghly, Dacca and the Suburbs of Calcutta, places eminently fitted from their wealth, position and intelligence to elect their own Municipal Commissioners, it has been found difficult to comply with the provision of the law, which requires a petition signed by one-third at least of the resident rate-payers. The Bill removes this restriction, and confers the right of election upon all but twenty-one Municipalities.

But it is necessary to do something more than this. Rules must be laid down for the conduct of municipal elections, and it is clearly impossible to embody these rules in the Bill. The rules will vary according to the circumstances of different towns, and we have as yet had so little experience of the

The Hon. Mr. Reynolds.

operation of a system of election, that it is probable that any rules which may be laid down will, for some time to come, require a good deal of amendment and revision. It must therefore be left to the Government to frame the rules. But if this power of framing rules were subject to no restrictions, it is evident that the power might be so used as to nullify the principle of popular election. It would be of little use to extend the elective system to a Municipality, and then to declare by a rule that the franchise should only be exercised by those who paid Rs. 50 a year in rates. The Bill therefore provides that, while Government may lay down such rules as it thinks fit, and may cancel any rule at its pleasure, it may not make a rule which would have the effect of excluding from the franchise any resident of the Municipality who pays rates to the amount of 2 annas a month. We do not desire by this to express any opinion in favour of the general introduction of a property qualification. Such a qualification is undoubtedly necessary in Calcutta. It will probably be necessary in such Municipalities as the Suburbs, Patna and Dacca; but, speaking for myself, I am inclined to think that in the great majority of mofussil Municipalities a property qualification will not work well, and it has certainly not been successful in the only place in the Mofussil in which it has yet been tried,—the Municipality of Serampore. However this may be, I hope the wording of the section makes it perfectly clear that the Government is under no obligation to impose a property qualification, and that the limit laid down in the Bill merely expresses the maximum of restriction permissible.

It is not, we think, desirable to have any separate qualification for candidates for election. In Burdwan and Kishnaghur, any resident rate-payer may offer himself for election, if only he can read and write. Such an educational test as this seems to us superfluous. It is most improbable that a totally illiterate man would offer himself for election, or would be elected if he should offer himself. A more practical difficulty has been raised by some critics of the Bill, who have urged that the absence of a special qualification for candidates may lead to the election of persons of inferior social status, with whom respectable gentlemen would be unwilling to sit. While we admit a certain force in this objection, we do not see how the difficulty could be met by any form of qualification which could be devised. A mere property test would evidently be insufficient, and, on the whole, we are not inclined to fetter the choice of the electors by imposing any qualification.

As regards the election of a Chairman, the Bill gives this power to the great majority of the more advanced Municipalities. It does not appear advisable that the District or Sub-Divisional Officer should be elected by a Municipality as its Chairman, but the Bill provides that the Commissioners may, if they think fit, waive their power of election and ask the Government to nominate their Chairman for that turn. If it should be the expressed desire of the Municipality that the Magistrate should be appointed, the Government would no doubt comply with the request. We have not thought it necessary to retain the provision of the present law, which makes the election of the Vice-Chairman subject to the approval of Government, but we have

adopted a suggestion which was made to us, that it is desirable to insert a clause to prevent the repeated re-election of the same gentleman as Vice-Chairman.

I ought also to call particular attention to the alteration made in section 9 of this Bill, as compared with section 10 of the present law. The present law permits the Government at any time to withdraw any place from the operation of the Act. The Bill declares that this shall only be done on the application of the Municipal Commissioners themselves.

This, then, is the constitution which the Bill provides for what I may call an average Mofussil Municipality. The Municipality cannot be abolished except with its own consent: two-thirds of the Commissioners will be elected by the resident rate-payers, and the Commissioners, so elected, will choose their own Chairman and Vice-Chairman. To the municipal bodies so constituted, the Bill gives substantially the same powers of taxation and expenditure, and the same duties of administration, as are exercised under the present law by Municipalities which can at any time be abolished at the pleasure of Government, and in which the Government appoints the entire body of Commissioners and their Chairman. Indeed these powers and duties are more extensive under the present Bill than under the existing law. It is therefore essential to take precautions to ensure that these powers will be justly and wisely exercised, and that these duties will be efficiently performed. This the Bill proposes to do, not so much by a system of guidance from within as by a system of control from without. The vision of the District Magistrate marching at the head of his Commissioners along the path of municipal improvement has no doubt a certain attractiveness. But experience seems to show that the vision is not realized, except when the Commissioners themselves wish for the Magistrate's guidance. In other cases, the Magistrate is left to march by himself. Now, it is the object of this Bill to provide that if the people, speaking through their elected representatives, really wish for the Magistrate's headship, they shall be able to get it, but that guidance by the Magistrate shall not be forced upon them. The Bill secures that the Municipality shall march, and that it shall march in the right direction; but that, so long as the Municipality does this, it shall be left at liberty to march under the guidance of any head it may select for itself. If it stands still, or goes wrong, power is reserved in the Bill to quicken it into activity, or to restrain its excesses. If it persistently neglects its duties, or abuses its powers, it may be suspended for a specified period, and the right of election, which it has shown itself unworthy to exercise, may be withdrawn from it. But the point, and the vital point, in which the principle of this Bill differs from the principle of the existing law, is that this Bill attempts to establish a genuine system of municipal self-government on the basis of representation. So long as the Municipality does its duty, and fulfils its allotted functions, it will be left to choose its own leaders, to expend its own money, and to carry out its own improvements.

The sections relating to the municipal constitution, and to the power of control reserved to Government, are the really important parts of the Bill,

The Hon. Mr. Reynolds.

and I need not detain the Council to-day with any remarks on the remaining Chapters in which the alterations made in the existing law are for the most part confined to matters of detail. I beg to give notice that I propose to move that the Bill be taken into consideration at the next meeting of the Council. I may add that I intend to propose that the Bill, or at any rate those parts of the Bill to which I have referred to-day, shall be taken up section by section. I think that this procedure is not only desirable in view of the great importance of the measure, but that it will be the most convenient arrangement for those Hon. Members who may desire to take part in the discussion. By this plan, any Hon. Member who wishes to speak on the general scope and tenor of the Bill will have an opportunity of doing so, on the motion that the Bill be taken into consideration; while Hon. Members whose criticisms refer to particular sections will probably wish to reserve their remarks till the sections in question are reached in the course of our progress through the Bill.

PARTITION OF ESTATES.

The Hon. Mr. Dampier said:—I have the honour to present the report of the Select Committee on the Bill which was referred to them for the amendment of the Estates' Partition Act. In consideration of the objections which were made at the last debate on the subject, particularly that the Bill before the Council would work inconveniently in the matter of giving a concurrent jurisdiction to the Collector and to the Munsif in dividing lands in the same estate, and that it would also work inconveniently and undesirably by practically imposing certain restrictions upon the owners of larger shares than those which pay less than ten rupees, by imposing restrictions upon their powers of obtaining the separation of their shares from the parent estate—I say that in consideration of those objections I consulted the local officers of the districts in which partitions are most common, and also took the opportunity of discussing the subject with some of the officers from Behar who happened to be down here, inducing them to lay aside the sword for the pen for that purpose. I proposed to them certain modifications which occurred to me in the Bill as it was before the Council, and the result of these discussions was to bring it out, certainly, that the Bill would be open to the charge of working inconveniently. I then represented to the Members of the Select Committee the result of these discussions, and the majority of us came to the conclusion that, the object for which the Bill was referred to a Select Committee by this Council would be better attained by recasting the Bill into the form in which it is now presented to the Council.

It will be observed that the annual liability of land revenue for twenty rupees is mentioned in the present Bill, whereas the figure mentioned in the Bill which was referred to the Select Committee was ten rupees annually. I would particularly call attention to the fact that it is a mere difference in the mode of expression. As a matter of fact, the Bill now presented covers less ground, imposes less restrictions on partitions than that which was referred

to the Select Committee by this Council. The Bill which was referred to the Select Committee provided that no partitions should be undertaken under the Act which should have the effect of creating any separate estate of which the annual liability for land revenue would not exceed ten rupees. Such an estate might not be carved out of any parent estate, whether the parent estate was a large or a small one. But the Bill which is now presented merely provides that no estate which is now liable for a payment not exceeding twenty rupees shall be liable to partition under the Act. Obviously, a parent estate, which is not liable for more than a payment of twenty rupees, cannot by any possibility be divided without creating one estate at least of which the land revenue shall not exceed ten rupees. The difference between the Bills is this:—The old Bill interfered with the question of partition in large estates if the new estate to be created was a petty one, but the Bill as now presented absolutely does not touch a large estate at all, does not touch any parent estate of which the annual liability for revenue does exceed twenty rupees. So the present Bill is well within the object and principle of the Bill which was referred to the Select Committee by this Council.

The present Bill gets rid of the inconvenience which the Hon. Member opposite (Babu Harbuns Sahai) so forcibly brought to light, of the possibility that the Munsif and the Collector might be called upon at the same time to be carrying on the separation of land within the same estates. That will now be impossible, for if the Bill which is now presented becomes law, the Collector will never have to deal with the separation of lands in a parent estate of which the liability does not exceed twenty rupees. All separation of lands within such estates will be conducted by the Civil Courts, under the powers which they will receive by the modification of the Civil Procedure Code which the Governor-General in Council has consented to initiate in the Legislative Council of India.

In the Bill as presented to the Council, originally it was provided that the new section should be in substitution for section 11 of the present Act. That was necessary according to the form in which that Bill was shaped, but in the form which the Bill now takes as presented to the Council by the Select Committee it does not entail the necessity of repealing section 11. The objects of the two, that is to say of section 11 of the Act as it stands, and of the new section which is now proposed to the Council, are different. The Bill which is now recommended to the Council provides, that no estate of which the annual liability for Land Revenue does not exceed twenty rupees in the year shall be divided. But section 11 of the existing Act has a different object. It does not prohibit the formation of petty estates liable for less than ten rupees, but it prohibits the formation of infinitesimally small estates liable for not more than one rupee to be borne on the revenue rolls with that insignificant demand. It provides that no estate shall be formed of which the liability shall be less than one rupee, unless the owner of the estate engages to redeem the revenue by a lump payment. Section 11 applies to all estates, whether big or small. Section 10A, which is now proposed, will only touch the parent estates which do not yield more than twenty rupees. After this Bill is passed,

The Hon. Mr. Dampier.

it will remain for the Lieutenant-Governor to move the Governor-General in Council to carry out the promised amendment of the Civil Procedure Code.

Further, the Bill referred to the Select Committee puts a stop to the completion of all pending partitions if they were opposed to the restrictions imposed by the Bill. The Select Committee thought that would not be fair to those whose applications were pending, and who may already have paid considerable sums of money towards carrying out separation. Therefore, there is this further difference between the two Bills, viz. that the present Bill allows partitions which are actually in the course of being carried out to be completed. At the next meeting of the Council, I intend to propose that the Bill as now presented be taken into consideration by the Council.

AMENDMENT OF THE POOREE LODGING-HOUSE ACT.

The Hon. Mr. Macaulay moved for leave to introduce a Bill further to amend Bengal Act IV of 1871 (Pooree Lodging-house Act, 1871, as amended and extended by Bengal Act II of 1879). He said:—A very few words will suffice to explain to the Council the grounds on which this proposal is based. The original Act of 1871, as may be gathered from its title, was framed to meet the circumstances of the great pilgrim terminus of Pooree. The object was to provide for the inspection and regulation of lodging-houses and for the levy of licensing fees, which might be devoted to general purposes of sanitation. It was subsequently found desirable so to amend the Act as to admit of its being extended to other places to which pilgrims resort, and to places through which they ordinarily pass in the course of their journeys. The Act has accordingly been introduced into Gya and Deoghur, which are what may be called termini of pilgrimage, and here it has worked without any hitch. It has also been extended to Raneegunge, Garbetta, Dantoon and Ooloberia, all stages through which large numbers of pilgrims pass on their way to Juggernath; but here a serious difficulty is threatened. The original Act, as I have said, was intended to meet the circumstances of a pilgrim terminus, not a pilgrim stage,—of a place, in other words, in which the pilgrim would, at any rate, ordinarily spend some time; and accordingly in framing the section to enforce the liability of lodging-house keepers to take out licenses it was considered appropriate to provide that a fine might be inflicted for every hight on which a lodger might be sheltered in an unlicensed house. Now, some astute individuals among those who minister to the wants of pilgrims have discovered a very simple means of evading this provision with profit to themselves, and without inconvenience to heir visitors. They induce their lodgers to rest during the day and proceed upon their journey during the cool of the night, instead of adopting the reverse process of travelling by day and resting by night, and then they snap their fingers at the baffled Health Officer. Unless the law is amended, it will become practically a dead letter at all these intermediate stations. It is needless to say that the necessity for regulating the management of these lodging-houses and providing for the general sanitation of pilgrim stations is just the same, whether the pilgrims select twelve

hours of daylight or twelve hours of darkness for the term of their visit, and the Bill which I now ask leave to introduce will render it compulsory on all persons who receive any lodgers at any time into their lodging-houses to conform to the regulations.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 19th instant.

Saturday, the 19th January 1884.

Present:

The HON. G. C. PAUL, C.I.E., *Advocate-General, Presiding.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel The HON. S. T. TREVOR, R.E.
The HON. H. BEVERLEY.
The HON. J. E. CAITHNESS.
The HON. MAHOMED YUSUF.
The HON. HARBANS SAHAI.
The HON. CHUNDER MADHUB GHOSE.
The HON. W. L. ALEXANDER.
The HON. KUMAR BOYKANTONATH DE.

AMENDMENT OF THE POOREE LODGING-HOUSE ACT.

THE HON. MR. MACAULAY moved that the Bill further to amend Bengal Act IV of 1871 (Pooree Lodging-House Act) be read in Council. He said:—At first I was prepared to ask you (the President) to suspend the rules for the conduct of business to admit of this Bill, which consists of only one section, being passed at this sitting; but since I entered the room it has been represented to me by my Hon. friend Mr. Beverley that there are certain questions connected with the working of that Act under the consideration of the law officers of Government, and it is quite possible that the outcome of their deliberations may be some recommendation for the further amendment of the Bill. I will therefore only move now that the Bill be read in Council..

The motion was put and agreed to, and the Bill read accordingly

The HON. MR. MACAULAY also moved that the Bill be referred to a Select Committee with instructions to report within three weeks.

The HON. KUMAR BOYKANTONATH DE said:—Before this Bill is referred to a Select Committee, I wish to make a few remarks. The provision of section 36 of the existing Act is practically a dead letter, inasmuch as the condition imposed by it places it almost beyond the power of an aggrieved person to

The Hon. Mr. Macaulay.

lodge a complaint. A traveller cannot be expected to wait for one month in order to prefer his complaint—not to say to wait much longer, to go through the necessary proceedings in order to obtain redress. This provision gives immunity to officers who are given to high-handed proceedings. In fact, fortified by this arm of the law, the Police and other underlings commit oppression without let or hindrance. If the Legislature is really anxious to protect the weak and the poor from abuse of power by officers charged with the administration of the Act, it ought to repeal this section, and leave aggrieved persons to the ordinary law of the land for redress. If any officer, though acting in good faith, commit any abuse of power from error of judgment, he will be sufficiently protected by the existing Good Faith Act. I would suggest that this section of the Pooree Lodging-House Act be taken into consideration by the Select Committee.

The motion was then put and agreed to, and the following Select Committee was nominated:—The Hon. the Advocate-General, the Hon. Mr. Beverley, the Hon. Harbans Sahai, the Hon. Kumar Boykantonath De, and the Mover.

BENGAL MUNICIPALITIES.

The Hon. Mr. Reynolds moved that the report of the Select Committee on the Bill to amend and consolidate the law relating to Municipalities be taken into consideration in order to the settlement of the clauses of the Bill. He said:—As there are a large number of amendments on the notice paper, I think it will conduce to the despatch of business if I make my remarks as brief as possible. With regard to the constitution of Municipalities, I have little or nothing to add to what I said at the last meeting. The scheme of the Bill is, in brief, a scheme of Municipal Self-Government, safeguarded by an efficient system of external control. But while on the subject of control, I should like to ask the attention of Hon. Members to sections 252 to 254 of the Bill. These sections, it will be observed, are put into one of what I may call the optional Chapters of the Bill; that is to say, they are sections which can only be extended to Municipalities by the Local Government on the application of the Commissioners themselves. But these three sections, which are merely reproduced from the existing law, provide, that in case the Commissioners should fail to take action under certain sections referring to the sanitary condition of blocks of huts, the Local Government may take steps under those sections. These sections are evidently out of place in a chapter which can only be extended on the application of the Commissioners themselves. The sections have hitherto been a dead-letter, never having been extended to any Municipalities, and from the nature of things it is simply impossible that they should be extended, as no Municipality would ever apply to the Government to take action under them. If, therefore, the Council should be of opinion that these sections should be retained, I shall have to propose, when we reach them in the course of our progress, that they should be transferred to the Control portion of the Bill which ends with

section 65. But I think it very possible that, under the system of control which has been established, it will be unnecessary to retain these sections at all. It will be a question for the Council to consider whether they should not be omitted altogether.

My remarks at the last meeting extended to Parts I and II of the Bill, Part III, which refers to the municipal fund, and Part IV, which refers to the municipal taxation, contain very little variation from the law as it now exists; and as such variations as they contain are matters of detail, they will be best considered when the sections themselves are taken up. The mode of preparation of the municipal budget, and the manner in which it may be revised and sanctioned, are given in sections 71 to 76, and I wish to commend these sections to the consideration of Hon. Members. Then, Parts V and VI consist very largely of municipal regulations of a sanitary and conservancy character. Part V contains regulations which shall be generally in force in all Municipalities, and Part VI provides special regulations which can only be extended to a Municipality on the application of the Commissioners themselves. As the Select Committee have noticed in their report, it was pressed a good deal upon us by some gentlemen, who criticised the provisions of the Bill, that it would be desirable to strike out a large part of these sections, and leave them to be provided for by bye-laws to be framed by each Municipality. But when that proposal was circulated on the publication of the former report, we found a very large preponderance of opinion, that it would not be desirable to do anything of the kind, that it would be very much better to retain the sections, and that they should form part of the substantive law. Part VII refers to the water-supply, and was mainly taken, with certain alterations which seemed necessary to adapt it to the circumstances of a mofussil Municipality, from the existing Calcutta Municipal Act. It has been brought to my notice since, that there is no definite section in this Part enacting how the water-rate is to be levied, and that is a point upon which I shall have to bring forward some amendment when we reach that part of the Bill. Part VIII refers to lighting with gas, and is taken from Bengal Act of 1873, which was passed for the purpose of lighting Howrah with gas. Part IX, which refers to the construction and cleansing of latrines, is a reproduction, with certain alterations, of the existing Latrines Act of 1878; the main difference being that that Act can only apply to first class Municipalities, whereas this Bill can be applied to any Municipality which desires to have the sections introduced. As the Council will observe, this also is one of the optional Parts of the Bill.

I think these are the only Parts of the Bill to which I need draw the attention of the Council, and I therefore ask that the motion be put to the Council.

The motion was put and agreed to.

The Hon. Mr. Reynolds then moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The Hon. Mr. Reynolds.

The HON CHUNDER MADHUB GHOSE moved as an amendment that the consideration of the clauses be adjourned to Saturday next. He said that the Bill, as it had been amended by the Select Committee, had been published only three days previously, and there has been no time to consider the amendments which the Committee proposed; moreover the Members of the Council who had been recently appointed had not had time to read through the Bill, and he thought it would on the whole be a saving of time if the consideration of the clauses was deferred for a week.

The HON. MAHOMED YUSUF and the HON. HARBANS SAHAI supported the motion for postponement.

The HON. MR. REYNOLDS said that, under the circumstances of the case, it seemed reasonable to postpone the discussion on the detailed provisions of the Bill, and he therefore would not object to the amendment, although he regretted the necessity for the postponement of such an important measure. He hoped Hon. Members would be prepared to carry the Bill through its remaining stages with as little delay as possible.

The consideration of the Bill was accordingly postponed.

The Council was adjourned to Saturday, the 26th instant.

Saturday, the 26th January 1884.

Present:

The HON. G. C. PAUL, C.I.E., *Advocate-General, Presiding.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel The HON. S. T. TREVOR, R.E.
The HON. H. BEVERLEY.
The HON J. E. CAITHNESS.
The HON HARBANS SAHAI.
The HON W. L. ALEXANDER.
The HON. KUMAR BOYKONTONATH DE.

AMENDMENT OF THE POOREE LODGING-HOUSE ACT.

The HON. MR. MACAULAY presented the report of the Select Committee on the Bill further to amend Bengal Act IV of 1871 (Pooree Lodging-house Act).

He also applied to the President to suspend the rules for the conduct of business to enable him to move that the Bill be passed.

The President having declared the rules suspended, on the motion of the HON. MR. MACAULAY the Bill was passed.

BENGAL MUNICIPALITIES.

The Hon. Mr. Reynolds moved that the clauses of the Bill to amend and consolidate the law relating to Municipalities be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

The Hon. Mr. Dampier said:—The Council will have seen from the dissent which I have appended to the report of the Select Committee that I was not able to agree with their recommendations on certain points. Now I consider the question so serious a one, that I wish to avoid anything that may import acerbity in the discussion that is about to take place, and, therefore, I ask leave to explain why I put the second of the two questions of which I have given notice. I must admit that it has on the face of it the appearance of maliciousness. It looks as if I wish to put the Hon. Member in charge of the Bill into a difficulty.

The Hon. Mr. Macaulay said:—I am sorry, Sir, to have to rise to a point of order, but I must ask if the Hon. gentleman is speaking to any motion. I believe that formal interpellations are an entire innovation in the procedure of this Council, and it is obvious that, if unchallenged, they may form an inconvenient precedent. I have no desire to oppose the action of the Hon. gentleman, so far as the substance of his question is concerned; but I wish to know if he is in order in addressing the Council without reference to any specific motion.

The Hon. the Advocate-General, Presiding, said:—I am of opinion that Mr. Dampier is at liberty to proceed. He wishes to make an explanation to the Council. Here is a report of the Select Committee to be taken into consideration, and the Hon. Mr. Dampier has dissented from it in certain particulars, and he wishes, before proposing certain amendments of which he has given notice, to obtain certain information pertinent to the subject.

The Hon. Mr. Macaulay:—I should be sorry to dispute the ruling of the Chair, but I must ask that a reference be made to the Secretary whether there is any precedent for an interpellation such as the Hon. gentleman has put upon the notice paper. As I have said, I have no desire to prevent the Hon. gentleman from receiving an answer to his questions. He can put them in the course of his speech later on, and they can be answered by some one speaking on the same motion. I wish it to be understood that I raise the question only to prevent the occurrence of an inconvenient precedent.

The Hon. the Advocate-General, Presiding.—In a case like this I am very much in the hands of the Council, and I must ask them to decide. If the Hon. Member wishes for a ruling, I will put it to the Council and take a vote as to whether the Council wish the questions to be put.

The Hon. Mr. Macaulay.—I am quite willing that the question be referred to the Council, because, if we agree, a precedent will only be established for

interpellation by consent of the Council. I, for one, will vote, under the circumstances, for permitting the Hon. gentleman to proceed.

The HON. the ADVOCATE-GENERAL, PRESIDING.—That will be the best course. The Council can allow the Hon. Mr. Dampier to proceed "by consent."

The motion was then put and leave was given.

The HON. MR. DAMPIER resumed:—I shall be obliged to repeat, that nothing is further from my wish than to import any appearance of acerbity in these discussions. The second question of which I have given notice has, on the face of it, the appearance of maliciousness, and I desire to repudiate any such intention and to explain what has led me to ask these questions. My honest object today is to press on those Members, who have not already irretrievably made up their minds, certain things which are essential to the formation of a right opinion. While avoiding anything which can be stigmatized as an *ad captandum* argument to gentlemen who are not familiar with these questions; while endeavouring to avoid any device of taking advantage of the technical rules of the Council, it is my object to lay before them, as fully as I can, those arguments which seem to me legitimate, and on which they may properly found their conclusions. In endeavouring to frame my arguments, I found I absolutely could not do so without having before them, and before myself, a definite idea of the answers to the two questions which I am about to put; and I adopted the unusual course of giving notice of those questions, because I thought they were of sufficient importance to deserve consideration, and I wish to avoid taking advantage of any temporary difficulty which might be caused by springing a mine under the Hon. Mover of the Bill. The HON. MR. DAMPIER then put his first question, which was as follows:—

"Whether the material alteration which the Select Committee have made in the Bill by framing Schedules (of which the effect is to transfer from the Local Government to this Council the function of deciding in respect of each individual Municipality, whether the circumstances of such Municipality are such that it can properly be admitted at once to the exercise "of full electoral system," or whether its elective rights should be restricted) has been made at the instance of the Local Government; and if so, whether, with the permission of the President, the Hon. Mover of the Bill will cause to be laid before the Council any communication to that effect which may have been received from the Local Government."

The HON. MR. REYNOLDS said:—I must say I was somewhat surprised at the wording of the question of which the Hon. Member has given notice. The wording of the question seemed to imply that the Select Committee, by introducing Schedules in which certain Municipalities were entered, had sprung a kind of mine on this Council and the Government. But, as the Hon. Member has explained, the question is not asked for his own information, but in order to influence the opinion of other Hon. Members. He was a Member of the Select Committee, and he must recollect the discussions which took place some ten or eleven months ago, and the manner in which the

matter was then settled. The provision for introducing certain Municipalities into the Schedules was imported into the Bill as it was settled by the Committee in March last, and published for general information, and it has since been under the criticism of the Public. With regard to the specific point to which the Hon Member directs his question, I can only say that the scheme of specifying certain Municipalities in the Schedules which has been introduced into the Bill, was laid down with the approval and concurrence of the Government in a perfectly regular and constitutional manner; and I hope the Hon. Member will take that as a sufficient and complete answer to that part of his question. Then with regard to the second part of the question, I have before me a paper which would satisfy the Hon. Member that the Head of the Government has entirely approved of that principle. But I do not understand that it is in my province, even with the permission of the President, to lay a paper of that kind before the Council.

The HON. MR. DAMPIER asked:—Is the Council to understand that in rejecting the Schedules attached to the Bill it is going against the scheme of the Government?

The HON. THE ADVOCATE-GENERAL, PRESIDING said:—I think the question just put by the Hon. Member is a most pertinent one, inasmuch as the Council is called upon to pass Schedules in regard to which it has no information.

The HON. MR. MACAULAY said:—I think, Sir, that I can give some information to the Council on the question before it. The answer is a perfectly simple one. The Select Committee of which the Hon. gentleman is a Member, at a meeting at which he was present, deliberately and of its own motion adopted the system of Schedules. The system as a matter of fact has the concurrence of the President of the Council who is also the Head of the Local Government. I would remind the Hon. gentleman that at a recent conference at which the rough draft of the Select Committee's report was discussed by His Honor the President, the Hon. gentleman himself, the Hon. Mover of the Bill, and myself, His Honor expressly stated to the Hon. gentleman that he approved of the arrangement regarding the Schedules, and that he could only wish that they were revised so as to admit a larger number of Municipalities to full electoral privileges. But, the measure is in no sense a Government one. His Honor, if he were here, would vote for the Schedules as a Member of this Council: but every other Member would be at liberty to vote as he chose.

The HON. MR. DAMPIER said:—I accept the answer. The arrangement of the Schedules is in accordance with the view of the President, before hearing any discussion of the question in this Council, but it is not the result of a demand by the Government of Bengal under the safeguard of its official responsibility as such.

The Hon. Mr. Reynolds.

Then, my second question is this—

"Whether the Hon. Mover of the Bill will name, for the information of the Council, the Members of the Select Committee who constitute the majority whose views are represented by the details of the Schedules as now presented to the Council with the report of the Select Committee."

The HON. MR. REYNOLDS said :—This question is one on which the Hon. Member possesses just the same information as myself : therefore, I rather wonder what made him put the question.

The HON. MR. DAMPIER :—I wished in the draft of the Committee's report to bring it prominently forward that these opinions were the opinions of the *majority* of the Select Committee. My Hon. friend said it was not usual to do so, and he would rather let it be assumed that the report was the report of the majority of the Committee only. I therefore put the present question for the purpose of pointedly drawing the attention of Hon. Members of Council to the constitution of that so-called majority.

The HON. MR. REYNOLDS :—The principle of naming certain Municipalities in the Schedules was accepted by a large majority of the Select Committee. But there was some difference of opinion as to the precise number of Municipalities to be placed in the Schedules, and the decision of the question was in the hands of the Council. It seemed the most convenient arrangement to those Members of the Select Committee who were in favour of introducing Municipalities into the Schedules, that the Schedules should contain the largest number of Municipalities which any Member of that portion of the Select Committee thought it desirable to include in them ; and it would rest with any Member of the Council to move the omission of any of those Municipalities from the Schedules. That was the reason why the Schedules contained the names of some Municipalities which, in the opinion of some Members of the Select Committee, ought not to have been included, as would be seen from the notices of amendments before the Council.

The Council then proceeded to the consideration of the amendments of which notice had been given.

Section 8 provided for the extension of the Act by the Local Government to places which were not now under Municipal Government.

The HON. MR. DAMPIER moved that the last clause of Section 8 be omitted. The clause stood thus :—

"Every notification declaring a town or village to be a Municipality shall specify whether the name of such Municipality shall, or shall not, be inserted in the first or second Schedule of this Act, and shall further specify, subject to the provisions of Section 13, the number of the Commissioners of such Municipality."

He said :—The amendment which stands in my name is to omit the last clause of Section 8, but that amendment is really auxiliary to the subsequent amendment, that a certain section be added after Section 13, as

Section 13A. That section which it is so proposed to introduce runs thus in the amendment—

Section 13*A*.—"The Local Government may at any time direct that the whole or any number of the Commissioners of any Municipality shall be elected."

The following words to be added to the section above proposed:—

"and may from time to time vary or cancel such order."

And that corresponding alterations be made in the subsequent sections of the Bill; and the first and second Schedules omitted

It will be seen, therefore, that this amendment and the first amendment, to omit the last clause of Section 8, go together, and they really raise the whole question which I have to lay before the Council to-day.

I may be allowed to repeat what I have said in connection with the Local Self-Government Bill, that I entirely recognise that the time has come for making very considerable advance in the development of Local Self-Government in this country. No doubt a laudable popular interest in the subject has been excited, and there is a desire for it to which the Government should respond; and it is not only a matter of expediency, but it is also a high object for the Government to enlist the sympathies of the intelligent and educated classes who are now ready to offer their help in the management of their domestic affairs.

Then I also recognise that it is a great object to work up to the system of these local powers being exercised by the representatives of the communities who are affected.

It will be observed that the existing Act of 1876 recognises both these objects, and in some respects it even goes beyond the present Bill, for it provides that the Lieutenant-Governor may allow Municipalities to elect the whole or any number of Commissioners for the management of their affairs; whereas the Bill restricts this discretion in two directions. I am not prepared to say that it does not do so properly, but as a fact it does so restrict it. It will not allow the election of more than two-thirds of the Commissioners; and if the Lieutenant-Governor, or the Council, or whatever authority may take upon itself to decide the question, shall be of opinion that, under the circumstances of any particular Municipality, it cannot properly elect so large a number as two-thirds, this Bill decrees that no elective rights at all shall be given. The Municipality may not return one representative or two representatives only.

But while I quite recognise these principles, I equally feel that it is the duty of the Government to take care that the steps which it takes towards the end shall be steady, cautious steps, and planted upon firm ground. It seems to me that two objects are essential to a sound system of Municipal Government,—*first*, to create a body which shall be competent efficiently to administer the affairs with which it is entrusted, and which shall be capable of being entrusted with a very large freedom of direction in such administration; and *secondly*, to create a body which shall be a genuine representative body of the community with whose affairs it has to deal. If I have any hesitation in

The Hon. Mr. Dampier.

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going as far as the Hon. Member in charge of the Bill and his supporters towards the end which we desire, it is not caused by any doubt as to the excellence of that end, but it is caused by apprehensions that these essentials may be overlooked ; that in the anxiety—a laudable anxiety—to meet the wishes of the more intelligent and more educated classes, the material welfare of the more numerous but practically dumb individuals who constitute the majority of these communities, may receive less than that degree of attention which is its due ; and I am afraid that, in the anxiety to adopt a form of local representation, we may miss the substance and create bodies, in some instances, I mean, which cannot in any reasonable sense be called representatives of the communities with whose affairs they will be entrusted.

In the existing Act of 1876, Hon. Members will observe that section 16 imposed restrictions on the discretion of the Executive Government as to the election of the Commissioners. It provided that the Lieutenant-Governor should not give the franchise to any town unless a petition had been presented, signed by at least two-thirds of the rate-payers, expressing their desire for it. The reason for this restriction was, that in those days there was considerable apprehension entertained that the local officers might be carried away with the idea to press representative institutions on communities which did not really desire or care about them, and indeed would rather have been without them. The apprehension was that this would come about at the instigation of those classes from whom it might be reasonably supposed that the Municipal representatives would be chosen. And I may add that the intelligent public opinion of the non-official native community, generally speaking, as distinct from the opinion of each unit of Municipal Government, was quite with the Government as to the necessity of imposing such restrictions.

Now, why has this restriction been given up? In England it exists. Petition for a Charter is the first step. *Primâ facie* it is a natural condition to impose, and therefore I should be glad if the Hon. Member had explained more fully than I remember him to have done, the reasons for dispensing with this condition. As he has not done so, I must state my own reasons for abolishing it. I find that the condition has been an obstruction. The effect has been, as I understand it, to tie the hands of the Government from giving the franchise to communities to which the Lieutenant-Governor would otherwise have wished to extend it. I do not wish to retain the restriction, because in the first place I have no faith whatever in these numerously signed petitions, under the circumstances of the country, as being the genuine expressions of the feeling of the signatories ; and in the second place, I entirely accept that, in this matter, Government should go hand in hand with what I may call the general intelligent public opinion, even to the extent of being in advance of the general feeling of the particular community or Municipality with which it is dealing, and this for the purpose of gradually exciting interest and raising a desire for, and appreciation of, those privileges which will be conferred. I think that one excellent result of the discussions

which have taken place within the last few years upon extended self-government is, that these discussions have taken the place of the school-master as to primary education, I may say, on this particular question.

Such being my views, my objections to the Bill on certain points are that it does not provide what seems to me to be the safest and most effective means of attaining the object which we are unanimous in desiring to bring about. It is an easy thing to say that among the numerous Municipalities, above a hundred, some are qualified to exercise what the Hon. Member has termed "full electoral rights," and that, on the other hand, some of them not being so qualified, it is necessary in their cases to impose restrictions for the present upon such exercise. But between these two there surely lies a debateable ground as regards any particular restrictions. The question whether any particular Municipality should be admitted to full electoral privileges, or whether any particular restrictions should be imposed, appears to me to be one which depends on a most intimate acquaintance of existing local circumstances in each case, and therefore it is impossible to expect that this Council should discharge that responsibility properly. There is, however, an agency at their command; there is an authority at hand within whose proper functions it falls to make such discrimination. That agency is the Government of Bengal. This then is the object of my amendment, to leave the function of making such discrimination to the Government of Bengal rather than attempt to perform the function in this Council. This end will be attained by the removal of the Schedules from the Bill.

Now, the first argument by which I will support my proposal is the difficulty of performing the task of discrimination properly. It is not likely that every Hon. Member should have satisfied himself as to whether every particular Municipality has been rightly placed in either Schedule or rightly omitted from them. I assume that that has not been done by every Hon. Member. I say that the extreme difficulty of coming to an opinion on these particular questions is shown by the mere fact that those Hon. Members who have gone more closely into them—the Members of the Select Committee—have found it impossible to find any sort of *modus vivendi* upon the question: and it is not only among the Members of the Council, but there are differences of opinion between the Members of the Council and the local officers, who are also competent to form an opinion on this subject. Hon. Members will observe that the Select Committee consisted of five Members. Of these five Members, three have recorded their disapproval of the Schedules as now framed; the Hon. Member opposite (Mr. Macaulay) has recorded a dissent, saying that he is not satisfied with the details of them. I have myself recorded a dissent which has the same effect. The Hon Mahomed Yusuf has, by the amendments which he has put on the paper, shown that he is not satisfied with the details of the Schedules as they stand. So that two only out of the five Members of the Select Committee remain to represent the majority whose views are embodied in the Schedules as presented to the Council with the report. And the Hon. Member opposite (Kumar

The Hon. Mr. Dampier.

Boykantonath De), the last appointed Member of the Council, has also recorded an amendment which shows that he is not satisfied with the Schedules as they stand.

The Select Committee in their report have written:—"We have considered the opinions, but we have not in every case been guided by the recommendations of district and divisional officers." By what, then, have they been guided in cases where they have departed from those recommendations?

I desire to ask every Hon. Member of Council who has not examined the question for himself, upon what grounds he is going to give a vote which shall have the effect of expressing his conviction that a departure from the views of local officers in each such case is a wise and proper measure?

I apprehend it would be a fair answer to that question if any Hon. Member were to say that he accepted the principle that a petition expressing the genuine wish of a community concerned shall override the opinions of the local officers. But, as I understand it, Hon. Members who support the Schedules as they stand are not in a position to say that in every case in which they have passed over the recommendations of the local officers, it has been done at the request of the inhabitants. On the contrary, there is one case (a petition from some inhabitants of Uterparah) now before this Council in which the petitioners protest against this Council going against the recommendations of the local officers.

Then, I think it would be a fair answer if any Hon. Member were to say—"I rely upon the general concurrence of the majority of the Members of the Select Committee who have looked into this question, and I am willing to accept that as the ground of my vote;" but in the present case there is no such concurrence to rely upon.

Again, I can understand any Hon. Member saying—"I accept the formal expressed opinion of the Government of Bengal under the guarantee of its official responsibility, and as being the focus and centralization of the opinion of experts on the subject; and therefore, I give my vote in accordance with that opinion." But the Hon. Member who answered my question just now has told us that there has been no such formal expression of the opinion of the Government of Bengal as such, and acting under its official responsibilities, and on a knowledge of the circumstances of each case; and therefore that answer, I think, should not satisfy any Hon. Member who has not looked at the particular circumstances of each case.

I may indeed go further. The Council have before them a petition from Uterparah, in which they are told that the Government of Bengal has had before it the question of extending the franchise to Uterparah, and the petitioners beg that this Council should not decide against that deliberate opinion come to by Government not to allow the franchise. They beg the Council not to decide against that deliberate decision of Government without calling for and considering the records on the subject, which are to be found in the Medical and Municipal Departments of the Government of Bengal. Is this Council prepared to

call for all the discussions which passed on that question? If not, upon what grounds are they going to upset the deliberate opinion of the Lieutenant-Governor, that the franchise cannot properly be extended to Uterparah?

I cite that one case as a typical example, but I believe, if it were possible for this Council to get a genuine expression of opinion from each municipal community as a body, that there would be numerous cases in which *pros* and *cons* of that sort would have to be considered. Do Hon. Members of this Council feel themselves competent to decide upon these questions without information before them? I wish it to be distinctly understood that I am not arguing that any one view is better than another as to this distribution of individual Municipalities into the different classes. I am arguing that there is no necessity for the Council to decide this question, that this question cannot be decided in any way which can be put forward by this Council to the Public as an expression of their united opinion. No such opinion can be arrived at without a personal scrutiny by each Member of it, and I say that such scrutiny is not within the functions of Hon. Members of this Council, and that it is really not a question which this Council ought to decide. The Lieutenant-Governor is the proper authority. I do not think that it would become this Council as a body to legislate any particular provision of the Bill, as it stands, which they know is objected to by many who are competent to form an opinion on the subject, simply because no amendment can be formulated to which a vote of a majority can be got. I do not think it would be right to allow such a provision to stand, for no other reason than that it has got into the Bill somehow, and that technicalities prevent its being got out of it again.

It seems to me that what it is proposed that this Council should do, is to take up the position of the Captain of a ship who, up to a certain distance, has before him a clear and easy course, in which he has only to follow the unerring indication of the compass. That is the course which leads to the sound development of municipal freedom in self-government. Unfortunately, just before he gets into port, his ship has to pass through shoals and shifting sands. There is the Pilot—the Lieutenant-Governor of Bengal—who passes his time in examining the locality, and whose duty it is to keep himself informed, from day to day, of the changes and variations amongst these sands and shoals, and yet the Captain (this Council) refuses to avail himself of the Pilot's services, and why? Is it because the Captain is competent to take the ship up himself? Oh no, he is met by perplexities at every turn: it is only because the Captain is afraid that the Pilot will not get the ship up to its destination as soon as the Captain would like. I can understand an argument of this kind being tolerated from a Captain of one of the old opium clippers, the very object of whose existence was that they should arrive a few hours before others with news of the opium market; but is there any such reason to risk the ship of good government in this way?

My next argument must be taken from analogy, and I must begin with a postulate. Under the existing Act, the urban units which are brought within the operation of the Act are, certainly, called Municipalities. Under the Bill

The Hon. Mr. Dampier.

as it stands, the units brought under its operation are also termed Municipalities. But there are Municipalities and Municipalities. It will not by seriously contended that the Municipalities which are now to be created be the Bill, except in the three exceptional cases to which the franchise has already been extended, are similar to the Municipalities under the existing Act, except in designation only. This Bill will have the effect of a first admission to a Charter of Corporation in all cases, except the three which have already been admitted to elective rights. I do not know where the Hon. Member has found his precedent for legislation, placing the function of such admission in the hands of the Legislature. If he has found that principle in any of the numerous Bills on the subject of Local Self-Government which have lately been before the Public, then, no doubt, he will tell us of it. But of one thing I am sure, that he has not taken the precedent of leaving the granting of such Charters to the Legislature, instead of the Executive Government, from our own country. Clause 210 of the Municipal Corporations Act, not any Statute of fifty years ago, but of 1882, runs thus :—" If on the petition to the Queen of the inhabitant house-holders of any town or towns or district in England, or of any of those inhabitants, praying for the grant of a Charter of incorporation, Her Majesty, by the advice of her Privy Council, thinks fit by charter to create such town, towns, or district * * * * a municipal borough and to incorporate the inhabitants thereof, it shall be lawful for Her Majesty by the Charter to extend to that municipal borough and the inhabitants thereof so incorporated, the provisions of the Municipal Corporations Act."

That is to say, the first origin of the Municipality rests with the Executive Government, and not with the Legislature ; and, Sir, will any Hon. Member here say that, under the circumstances of India, less freedom and discretion should be left to the Executive Government by the Legislature than is left in England ?

So much as to the first classification of Municipalities with regard to the degree of elective municipal freedom which they are to exercise after the passing of the Bill. I now pass to that part of my amendment which is embodied in the words " the Lieutenant Governor may, from time to time, vary or cancel such order." I have purposely put that as a separate amendment, because some Hon. Members who agree in the object of the first amendment, to leave the first classification to the Lieutenant-Governor, may perhaps not accept the second, which is to allow the Lieutenant-Governor to make subsequent alterations.

Now I think that, when we consider the vast unexplored region which we are now entering upon, not only is it unreasonable to expect that this Council will be able to draw up properly classified Schedules, but that it is unreasonable to expect that the Lieutenant-Governor should not make mistakes. It may be reasonably expected that he will pass orders at first which he, after experience, will wish to undo ; and I think that the largest possible discretion should be left to him.

And not only will mistakes have to be corrected, but I think, further, that the conditions of individual Municipalities in this country are liable to change in themselves. I will take a shaft from the quiver of the Hon. Member opposite (Mr. Macaulay). He has said in his dissent that the existence of local dissensions may be a fair reason for denying to any particular Municipality the right of electing its Chairman. Now, is that a good reason or is it a bad reason? If it is a bad reason, of course it must be rejected in the first classification; but if it is a good reason, I ask, even if no such dissension exists at the time of the passing of the Bill, what guarantee is there that dissensions will not have sprung up when the second or third vacancy in the Chairmanship shall have occurred? If the existence of such dissensions is a good reason for the Government to appoint a Chairman in the first instance, why prevent the Government from acting upon that good reason on the occurrence of future vacancies? If I may return to the *simile* of the ship, when it is known that the shoals and sands are shifting in their character, why insist upon the ship being taken on all future voyages along the precise course which is a good course to take according to present condition.

As regards this future power, it will probably be answered that no such authority exists in England for the withdrawal of a Charter when it has been once given. I am not informed upon that point, but, if that be so, my reply is that, in the *first* place, the changes of circumstances, the shifting sands and shoals, do not exist in England in the same degree as in this country; and *secondly*, that in England they are not breaking into unexplored and unknown tracts of which they have no experience, but they have a well-used path to follow, and therefore that they are less likely to make mistakes in the first instance.

For these reasons I would leave the widest discretion to the Local Government, and I would remind Hon. Members of Council that the exercise of an official discretion by an authority of that sort is not the same thing as the exercise of arbitrary will by private individuals, for such a discretion is to be exercised subject to the responsibility to superior Governments and subject to the responsibility to public opinion; and I feel certain that any retrograde step in a liberal policy would have to be made under an amount of hostile criticism and discussion which would afford material guarantees against its being lightly or unnecessarily undertaken.

I see my friend opposite (Mr. Macaulay) is impatient to get up and demolish me with an argument which, I am afraid, is much more practical than convincing: that he is ready to say to me *tempora mutantur, tu non mutatus in illis.* Nevertheless, am I obliged to urge before this Council these arguments which seem to me to be of weight against a course which runs the risk at least of being mischievous, in some instances, to those very communities for the benefit of whom it is designed and for which there is absolutely no necessity, in our advance towards the great object which we all seek—the development of self-government. I have now the honour to move the first amendment which stands in my name, that the last clause of section 8 be omitted.

The Hon. Mr. Dampier.

The Hon. Harbuns Sahai said:—I beg to oppose most respectfully, but strongly, the amendment which has been moved by the Hon. Member. The important features of the Bill, as amended by the Select Committee, which are decidedly improvements on the existing law, are the following:—The Bill divides the Municipalities into three classes. In the first class, unrestricted privileges have been given to the tax-payers to elect their own representatives who will be two-thirds of the number of the Commissioners as fixed by the Local Government, and the Commissioners will have the right to elect one of their number as their Chairman. The second class will consist of those Municipalities mentioned in the second Schedule of this Bill, in which the tax-payers will have a similar privilege, so far as the election of two-thirds of the number of the Commissioners is concerned, but the appointment of their Chairman shall rest with the Government. The third class will be composed of those Municipalities entered in the first Schedule of this Bill, in which the whole number of the Commissioners will be appointed by the Local Government, but the Commissioners so appointed will have the right to select their own Chairman. In every case, all the Municipalities will have the privilege of electing their own Vice-Chairman, and the election will no longer be subject to the sanction of Government. So long as the Municipality discharges its duty properly and efficiently, the Bill secures to it perfect independence and freedom of action, and it is only in the extreme case of a Municipality going far wrong and persistently neglecting its duties, or abusing its powers, that the Government is authorized to interfere in the interests of the Public and suspend it for a specified period. This Council, composed as it is of the ablest and most experienced Government officials, and non-official representatives from every part of the Province, has before it the opinion of the local officers and the views and wishes of the Public, and is in a position on the materials placed before it to determine which Municipalities should have the privilege of the elective system; and it has, according to the local circumstances and requirements, classified the Municipalities into three groups mentioned above. Hitherto, the Magistrates presiding as Chairmen in the municipal meeting had a predominant voice in the determination of all questions brought before it, and the things used generally to be done and managed according to his views and wishes. Now happily under the Bill, the change has been made for the better; and for the first time the non-official Municipal Commissioners and Chairmen have been armed with real powers and independent authority, and left to exercise their own unfettered judgment without the interference of the Magistrate in municipal matters. Accordingly, the educated Public of Bengal hailed with joy and welcomed with cordiality the excellent provisions of the Bill, which would open to them a fair field for the independent exercise of their administrative talent and intelligence, and development of their natural parts for managing public business, and afford them a fine opportunity for giving proof of their public spiritedness and devotion to the cause of the common good. Therefore at the last meeting of the Council, when the Hon. Member in charge of the Bill moved that the Bill be taken into consideration, I had a mind to say a few words approving

of the general scope and tenor of the Bill, and expressing the best thanks of the whole of Bengal to the Local Government, as well as to the Hon. Member in charge of the Bill, for having conferred on the Province the boon of municipal self-government on the basis of representation; but, on reading the amendments proposed by the Hon. Member opposite (Mr. Dampier), I thought it proper to wait till the result of these amendments was known, inasmuch as it struck me that if these amendments were to be carried, the above privileges and boon would be practically nullified, and that the present Bill would be shorn of the new improvements, and that we would be left to the existing state of things. In my humble opinion it would be as well to move for the withdrawal of the present Bill, and leave the existing law as it stands at present, as to press the amendments in question. The Hon. Member by his amendment proposes to leave the introduction and withdrawal of the elective system as regards Municipal Commissioners and Chairmen entirely in the hands of Government, and to empower the Local Government to act in the matter from time to time, according to its pleasure. I fail to perceive the force of his arguments, or the advantages of the measure as proposed by him. I do not see any reason why the aforesaid privileges should not once for all be conferred on the people as the Bill proposes to do. I do not see why the function of the legislature, so far as it is in a position to perform it just now, should be delegated to the Executive Government, which I am afraid will not be better qualified than this Council to arrive at a correct conclusion. His Honor the Lieutenant-Governor, I have no doubt, entertains very liberal views on the matter, and will freely extend the elective system to the majority of the Municipalities; but his successor (for aught we know) may be quite of a different opinion, and may under the discretionary powers proposed to be vested in him, withdraw the said privileges: thus the value of the boon will be lost by want of permanency and certainty in the matter. Now, to come to the point, so far as the present amendment is concerned, I do not see why the Local Government, having all the necessary materials before it, shall not be in a position at the time of creating a new Municipality to determine whether the circumstances of that locality justify its being inserted in the first or second Schedule of the Act or in neither, and notify accordingly. I therefore oppose the motion.

The Hon. Boykanto Nath De said:—I do not see sufficient reasons for omitting the clause, because such a provision is necessary to show under what schedule a newly-created Municipality is included. When this is done, the nature of such a Municipality cannot be ascertained. I am sorry, therefore, I cannot accept the amendment.

The Hon. Mr. Dampier said:—I have only a few remarks to make on what has fallen from the Hon. Member opposite (Babu Harbuns Sahai). The Hon. gentleman has expressed some apprehension as to the whims of the successor of the Lieutenant-Governor. I can only remind him that the discre-

The Hon. Mr. Harbuns Sahai.

tion exercised by an authority in the position of the Government of Bengal is very widely different from the whims of an arbitrary and private individual. He has said that he is satisfied with the views of the present Lieutenant-Governor, that they are liberal views, and that reminds me of a saying I have heard, "Orthodoxy *my* doxy; Hetorodoxy other doxy." The views of the present Lieutenant-Governor are in accordance with the views of the Hon. gentleman, and therefore those views are sound; and that being so the present Government may be allowed to tie the hands of its successors.

Then the Hon. Member said that the Lieutenant-Governor is not in a better position than this Council is to decide on the question of classification of the Municipalities in Schedules, the decision of which depends on an intimate knowledge of local circumstances. I shall leave that part of his argument to speak for itself; it is a rather far-reaching one, no doubt.

Lastly, the Hon gentleman has spoken of the public-spiritedness and devotion to the cause of the public good of the educated classes. I entirely acknowledge and recognise the willingness of those classes to devote their time and attention to local public affairs, and I desire to express my appreciation of it. But, as I have said already, I have thought it my duty to undertake the invidious and unpopular task of asking the Council to take care lest, in yielding to any attractive consideration of the sort, they should lose sight of the duty of the Government to hold the balance evenly between one class and another, and so should allow the material interest of the classes, whose wishes do not find expression, and who, perhaps, are not competent to form their wishes at all on the subject, to be thrown into undue shadow by the sunlight of other more brilliant considerations.

Lastly, as to withdrawing suddenly and arbitrarily any larger powers which have already been given, I ought to explain that I shall anticipate that if such discretion is left to the Government, it will not be exercised in the direction of restricting the freedom of action of any corporate municipal body; but that the considerations which will call for restriction in the future will rather arise from varying circumstances, bearing on the question of election and the exercise of the franchise, and as to the appointment of the Chairman, instead of allowing the Chairman to be elected by the Commissioners. I may mention one instance in which it occurs to me that there may really be some practical difficulty, and from which considerable disadvantage may arise to a Municipality from the Government not being allowed to restrict the right of appointment of the Chairman. I refer to the question of borrowing money. I believe from what I have seen in the administration of the Court of Wards' estates, that the credit of a Municipality which requires to raise money for any public purpose, would with some possible lenders of money be better if the Government had the power of appointing the Chairman of the Commissioners. I believe that some persons who would otherwise be willing to lend money, would be inclined to make such a condition before they consented to do so. This may be a condition of some importance in cases where a loan is needed for the carrying out of any large improvement.

The Hon. MR. DAMPIER's motion to omit the last clause of Section 8 of the Bill was then put to the vote and declared to be lost.

At the request of the HON. MR. DAMPIER a division was taken, and the following votes were recorded:—

AYES 4.	NOES 6.
The Hon. Mr. Alexander.	The Hon. Kumar Boykonto Nath De.
,, Mr. Beverley.	,, Harbans Sahai.
,, Mr. Dampier.	,, Mr. Caithness.
	Colonel the Hon. S. T. Trevor.
,, the President.	The Hon. Mr. Macaulay.
	,, Mr. Reynolds.

So the motion was negatived.

The Hon. MR. BEVERLEY moved to substitute the following for the last clause of section 8:—

"Every notification declaring a town or village to be a Municipality shall specify (subject to the provisions of section 13) the number of the Commissioners of such Municipality, and whether or not the provisions of sections 14, 15 and 16, and of section 24, shall apply to such Municipality.

"Notwithstanding any such notification, the Local Government may at any time by an order published in the *Calcutta Gazette*, extend the provisions of the said sections or any of them to any Municipality."

He said:—Much of what I had intended to say, Sir, has already been anticipated by my Hon. friend (Mr. Dampier), and has been put to the Council with much greater force and eloquence than I could have used. But I think it due to myself to state at the outset that the amendments which I have the honour to place before the Council are in no way antagonistic to the principle of the Bill, which I accept. The main principle of the Bill, as I take it, is this, that, as a rule, two thirds of the Commissioners of every Municipality shall be elected by the rate-payers, and that the Local Government shall not have the power to withdraw the franchise or privilege of election. Of that principle, I am as stout an advocate as any Hon. Member in this room. My experience as Chairman of the Calcutta Municipality has convinced me that a body of elected Commissioners have their strong as well as their weak points, and that as time goes on and the people begin to take a greater interest in local affairs, the strong points grow stronger, while the weak points sink into comparative insignificance. But while laying down this principle, the Bill, as originally introduced into Council, left a discretionary power to the Local Government to exclude certain Municipalities from the exercise of the elective privilege where it was thought that it could not be properly introduced. The Bill then went into Select Committee, and a majority of the Select Committee, for reasons no doubt known to themselves, but which have not been communicated to the Council, have thought fit to withdraw from the Local Government the discretionary power originally allowed to it, and instead of that to lay down a hard and fast rule as to the Municipalities to which the elective principle shall apply. The object of my amendments (for the whole of my amendments

The Hon. Mr. Dampier.

must be read together) is simply to go back to the original Bill, and to re-introduce the power of the Local Government which has been taken away by the Select Committee. And in order that the Council may see that this is not an unimportant matter, I would beg to remind Hon. Members that, according to the Civil List, there are at present no less than 128 Municipalities in Bengal. Of these, I believe three already possess the elective franchise. Schedule I contains the names of 21 only; so that the amended Bill declares that in the case of no less than 104 Municipalities the Council is prepared to say that they are fit and qualified to elect their own Commissioners. Schedule II again contains the names of only 38 Municipalities; so that the effect of the amended Bill is to declare that in no less than 90 Municipalities the Commissioners are at the present moment qualified to elect their own Chairman. These figures, I take it, will show the Council that this is a matter of very great importance, greater perhaps than might be supposed at first sight from the small number of names which appear in the Schedules.

Now, the first reason I shall lay before the Council why the proposal of the Select Committee should not be accepted is this, that this Council has no authority to usurp or encroach on the prerogative of the Crown, as represented by the Local Government, in conferring the franchise on any particular Municipality. The privilege of incorporating any town or village is a privilege, as we all know on the authority of Blackstone, appurtenant to the prerogative of the Crown. If it be said that these places have already been incorporated, I reply that so long as the franchise has not been given, the incorporation is inchoate only and incomplete. The Local Government may call these places Municipalities, but by calling them so, it has not divested itself of the power of regulating their internal affairs through its own nominees. Therefore I appeal to you, Sir, as the Law Officer of the Crown, to say whether, in thus restricting the prerogative of the Local Government, this Council is not exceeding its authority.

Nor, in my opinion, Sir, ought the Government to be divested of its responsibility in this matter. The Government has means for ascertaining the fitness of a town or village for exercising the franchise which this Council does not possess. The Government has its district and sub-divisional officers, and its Commissioners of divisions. On the other hand, what has the Council on which to proceed? Merely the reports which have been laid before us, and the arbitrary lists of names which have been inserted in the Schedules of the Bill. Now, is it because the Government is afraid to incur the odium of excluding Municipalities from the franchise that it wishes to shift the burden to this Council? Or are we to understand that the promoters of this measure are themselves so little confident of its success that they desire to transfer the risk and ignominy of failure? I put this question in all seriousness, and I hope it will be answered. In my opinion the responsibility ought not to be transferred to this Council, but ought to remain with the Local Government, which alone has the requisite facilities for enquiring into the fitness of towns for exercising the franchise.

The next argument I had intended to urge is, that we have no authority from the Local Government to legislate in the direction proposed; but I understand from the Hon. Member opposite (Mr. Macaulay) that the principle of having Schedules has been accepted by the Head of the Government, though not the details of the Schedules as they stand. If that is so, I have nothing further to say on that head.

If, Sir, we now turn to the report of the Select Committee, we find not only the Committee itself torn asunder by internal dissensions, no two Members agreeing as to the places to be put in the Schedules, but we also find no sufficient reason given for the form in which those Schedules are presented to the Council. I have already said that the Select Committee have given no reason at all for substituting Schedules for the discretionary power vested in the Local Government by the original Bill. I now say that we have very insufficient reasons for the vague manner in which the Schedules have been framed. Had the Select Committee been unanimous in their recommendations, I should have had the greatest possible hesitation in withholding my assent to them. Or had the majority (such as it is) given reasons for framing the Schedules in the form in which they are presented to us, the Council would have been in a position to judge of their cogency. But, as a matter of fact, Sir, there appears to be no principle whatever in the arrangement of these Schedules, or if there is any principle, it is admittedly one which is qualified by numerous exceptions: and I ask the Council whether it is on such a principle that it ought to proceed to legislate. If no principle can be found of general application; if, as is admitted, these Schedules must after all be framed with regard to local circumstances, it seems to me that the wiser course will be to leave the framing of the Schedules to the Local Government to whom those circumstances are known.

I now pass on to the papers which have been circulated with the reports of the Select Committee. But before doing so I should like to refer to the reports of the Select Committee, and to notice what they have said on this point. In their preliminary report the Select Committee say—"The most important sections of the Bill are those which relate to the constitution of Municipalities, and in these we have made material changes. The Bill, as originally drafted, left the Government an entire discretion to determine in what Municipalities the elective system should be introduced, and what Municipalities should have the power of electing their own Chairman. The wording of the Bill would even have left it in the power of Government to introduce the elective system into a Municipality and subsequently to withdraw it, and to direct the adoption of the system of the nomination. Such provisions appear to us to be incompatible with the declared intention of Government that the elective system shall be introduced into all considerable Municipalities. We therefore propose that certain Municipalities shall be specified in a Schedule appended to the Bill, and that in these exceptional cases the Commissioners shall be appointed by the Local Government; but that in all other cases the system of election shall be followed." Thus reasons are given why the power of the Government to withdraw the franchise should not be allowed, but no reason is

The Hon. Mr. Beverley.

given why Schedules have been substituted for the discretionary power of the Government to determine in what Municipalities the elective system shall be introduced. Then as to the details of the Schedules, the Select Committee say:—"In determining what Municipalities shall be allowed to exercise the privilege of election, we have considered the opinions, but have not in every case been guided by the recommendations, of the local and divisional officers." I think when we look into the details we shall see a very large number of exceptions, and it will be for the Council to consider, when my Hon. friend MR. DAMPIER divides the Council on each item in those Schedules, whether the reasons for those details are, or are not, sufficient in each individual case. Meanwhile, in going through these papers, I find that when the Bill was originally published, very few indeed of the Municipalities or of the local officers have noticed this question at all. It seems to have been accepted as a matter of course that the Local Government should have the power reserved to it, and that provision seems to have given general satisfaction. It was only when the point was raised in Select Committee, and the amended Bill went forth to the Public, that the question was noticed at all; and even among the papers that have come in on the amended Bill, I find a very large proportion, not only of the officers of Government, (including, I think, no less than six Commissioners of Divisions) but a large number of Municipal Commissioners themselves, are opposed to the change made by the Select Committee, and in favour of retaining in the hands of the Local Government the power proposed to be done away with. I propose very briefly to draw attention to some of these reports. The first I take up is from the Chairman of the Patna Municipality. He says:—"To the majority of the Commissioners the introduction of the elective system does not commend itself; and it is considered that a Committee, consisting chiefly of elected members, would in Patna develope either into a bear garden, or into a tyranny of the majority. Patna City is peculiarly circumstanced. It is a city where party feeling runs very high, and is most difficult to keep under even moderate restraint." But I do not find Patna in the first Schedule; so that, notwithstanding that the Patna Municipality has come up with a deliberate opinion that it is not desirable to introduce into Patna the elective system, this Council is called upon, with no further information before us, to give it the elective franchise. I next come to a paper from Chittagong. The Commissioner says:—"The system about to be introduced is an experiment, regarding the success of which many persons competent to form an opinion, are not very sanguine; and, under such circumstances, it would be most unwise to grant the franchise without possibility of recall. The power to disfranchise is one that the Lieutenant-Governor may well be trusted to exercise with prudence and discretion. I am quite of opinion that there are Municipalities to which it would be impolitic to extend the right of election, and which should be entered in Schedule I; but there is no guarantee that every Municipality at first not entered therein will be found fit to exercise the rights conferred by the Act, for the selection of

particular districts must at first be a mere matter of opinion, which experience may prove to be erroneous; and until the change has been working for some years it will not be known which places are fit for the exercise of these powers. At first, therefore, and until we have had some experience of the working of the Act, I am of opinion that the Lieutenant-Governor should have the power to place a Municipality in Schedule I, on sufficient grounds appearing." As regards the election of the Chairman, the Commissioner of Chittagong thinks that in every place in which the Local Government sees cause to admit the principle of election, and the rate-payers are allowed to elect their own representatives, the Commissioners should be allowed to elect their own Chairman. The Chairman of the Noakholly Municipality says:—"The proposals with regard to excluding certain Municipalities from the operation of the election of members, and the appointment of the Chairman by Government—in fact the application of Schedules I and II—seemed to commend themselves as generally applicable to this Municipality, and my own experience of the extreme apathy of the rate-payers when the proposals were made known in August last, convinced me that it will require considerable pressure on the rate-payers to induce them to record their votes." That is to say, the present Municipal Commissioners of Noakholly think that Noakholly ought to be included in Schedules I and II, but I don't see it in either of the Schedules. I next come to the Municipality of Bhabua in Shahabad, which passed the following Resolution:—"That some provisions be made in section 14 for the appointment of Commissioners on nomination, inasmuch as the elective system is not suited to such backward subdivisions as Bhabua;" but I don't see Bhabua in the first Schedule. The next paper is from the Durbhanga Municipality; there I read that it was "resolved unanimously that the elective system cannot be introduced into the Municipality;" but I don't see Durbhanga in the first Schedule. The next paper is from the Chairman of the Dinagepore Municipality, who writes:—"The Committee deprecate the universal introduction of the elective system, and would leave the Lieutenant-Governor the option of extending it to such Municipalities as were fitted to exercise it." The Commissioner of Chota Nagpore says:—"I agree with the Select Committee in thinking that those Municipalities in which it is not considered that the inhabitants are sufficiently advanced to elect Commissioners, should be specified in the Schedule No. 2 appended to the Bill. In my opinion neither Commissioners nor Chairmen would be elected in any of the Municipalities of the Chota Nagpore division." There are two Municipalities in that division which are not included in the first Schedule. The Chairman of the Sasseram Municipality writes:—"The inclusion of certain Municipalities in Schedule I will be empirical. There will be no guarantee for the successful working of the elective system in those not included in the Schedule. There are many Municipalities, considerable in point of population, yet deficient in the spirit of Local Self-Government, and wanting leading citizens of sufficient intelligence

The Hon. Mr. Beverley.

and leisure to be able to dispense with the services of officials. Regard being had to the tentative nature of this new departure, I am of opinion that it would be unwise not to reserve the power to Government of introducing and withdrawing the elective system." It will be understood that I do not go so far as to advocate the withdrawal of the elective system after it has been once conceded. The Commissioner of the Dacca Division says:—"I agree with Messrs. Dampier and Allen in their note to the report, that the Government should have discretionary power and the responsibility of proceeding cautiously and gradually on the matter." The Commissioner of Bhagulpore says:—"I agree in the remarks entered in the foot-note signed by Messrs. Dampier and Allen, which is appended to the preliminary report of the Select Committee." The Municipal Commissioners of Bankoora passed the following resolution:—"Resolved, with reference to the question of election, as to whether it should be the rule or the exception, that the principle should be recognised, subject of course to the special orders of the Local Government in each case. The Commissioners, however, are of opinion that the entry of names in a schedule of the Municipalities where the system of nomination would prevail, would tend unnecessarily to hamper the executive, they not being empowered under the Bill to enlarge the schedule at any subsequent period." The Commissioner of Patna says:—"I cordially agree with the remarks appended by Messrs. Dampier and Allen to the report. For the reasons given and in the words therein, the Executive Government should most certainly have the discretionary power, and with it the responsibility, of proceeding cautiously and gradually towards its object * * I also would object to withdrawing from the Lieutenant-Governor the power of proceeding tentatively in the matter of allowing the inhabitants of Municipalities to elect their own Commissioners." The Municipal Commissioners of Mozufferpore say:—"It does not appear that there is any particular or urgent necessity for any hard and fast rule to be laid down just now. It would be well if, for the present, the matter is left to the discretion of Government, which can very properly be exercised in consultation with the Municipal Commissioners and the District Officers." The Chairman of the Moorshedabad Municipality writes:—"The other Commissioners are of opinion that, as it is very likely that the system of election may fail, Government should be allowed the power of withdrawing it and that the sections at the end of the Act, viz., 340 and 341, giving Government power to supersede the Commissioners, are wholly inadequate to meet the apathy and incapacity which would, in all probability, have to be faced. One of the members remarked that a case in point of this apathy had come before the meeting that very day."

I think, Sir, I need not read any more extracts from these reports. I have read sufficient to show the Council that there is a difference of opinion in the matter among the trusted advisers of the Government, and among the present Commissioners of the Municipalities themselves, and I would ask this Council whether it is prepared on such reports as we have before us, and from which I have read extracts, in the case of the 104 Municipalities excluded

from Schedule I, to say that they are qualified and fit to exercise the privilege of the franchise; or whether in the 90 Municipalities excluded from Schedule II it is advisable and desirable that they should at once have the right of electing their Chairman. I think, then, that I have shown good reasons why the recommendations of the Select Committee should be rejected by this Council when they propose to substitute Schedules I and II for the discretionary power proposed by the original Bill to be given to the Government. In some of the opinions which I have read, mention has been made of the withdrawal of the franchise, but, as I have already remarked, I am not in favour of the withdrawal of the franchise after it has been once conceded; and for that very reason I consider it requires very careful consideration, and great responsibility will attach either to this Council or to the Local Government to see that a Municipality is fit to exercise the privilege before the franchise is extended to it. I think that under the Bill the power of control possessed by the Government and the local authorities will be quite sufficient, if properly worked, without any power of disfranchisement. The control which the Government possesses consists, first, in the appointment by nomination of one-third of the Commissioners; secondly, in the approval of the election, if not the appointment, of the Chairman; thirdly, in the power of suspension proposed to be vested in local officers; fourthly, in the power which the Bill gives to the Local Government to compel the performance of certain duties; and lastly, in the power which the Bill provides for the supersession of a Municipality. That is a power which, it is hoped, will be very rarely, if ever, exercised: still it is a power it will be well to reserve.

To recapitulate, I trust I have shown that in touching what I call a prerogative of the Crown, as represented by the Local Government, this Council is proceeding beyond its authority; that the Government ought not to be divested of its responsibility in this matter; that the Select Committee itself is divided on this question, and that we have had no reason whatever given for transferring the duty of framing these Schedules to this Council, and no sufficient reasons for the details of the Schedules themselves; that no principle of general application is apparent in the Schedules, and that details can be far more wisely left to the Local Government; and lastly, that the opinions of the local officers and of the present Municipal Commissioners are divided on the point, and that there is a very large number of opinions in favour of restoring to the Local Government the power with which it was vested by the original Bill.

Before sitting down, I wish to draw the attention of the Hon. Member in charge of the Bill to one part of my amendments, which does not affect their general principle, and it is this, that at present there is no time fixed within which the Local Government must make rules and the elections be held. If no such provision is made, it is possible that the operation of the election principle may be indefinitely postponed, or even that it may altogether remain a dead letter. With these remarks, Sir, I beg to move the amendment which stands in my name.

The Hon. Mr. Beverley.

The Hon. Mr. MACAULAY said.—I gave a silent vote, Sir, on the amendment of my Hon. friend, Mr. Dampier, because I proposed to reserve my remarks till the Hon. Mr. Beverley's amendment, which affects the same question, though in a different form, should come before the Council. The Council have now heard both amendments expounded, and Hon. Members have doubtless observed that they involve two different principles. One point of difference has been referred to by the Hon. gentleman who has just sat down. His amendment would allow Government to exercise its power of exclusion within six months only of the passing of the Act, while Mr. Dampier's amendment would confer a permanent power of exclusion to be exercised at any time. I will revert to the point hereafter. Meanwhile I wish to address myself to another point of difference—a difference of principle in regard to the municipal franchise. Mr. Dampier's amendment involves the principle of the old Act—the principle that Government shall ordinarily appoint, but may, in special cases, allow rate-payers to elect. Mr. Beverleys' involves a very different principle—the principle that the rate-payers shall ordinarily elect, but Government may, in special cases, appoint. Now, Sir, my Hon. friend, Mr. Dampier, was at least consistent in bringing forward his first amendment; though I have just learnt that his consistency has ended with his defeat, and that he has joined Mr. Beverley. There was a melancholy fitness in the circumstance that the last note of opposition to the principle of the elective system in Municipalities should be sounded by the Hon. gentleman. The Council do not require to be reminded that the Act which we are about to repeal was in a great measure the handiwork of the Hon. gentleman himself, and knowing as we do his natural affection for that which he has himself constructed, I doubt if any of us was much astonished to recognise among his amendments sundry fragments of that monument of legislative ability. I trust, Sir, that I may not be misunderstood as desiring to disparage the Act under which the Municipalities of this Province have been administered during the past eight years. I desire to speak with all respect for the high abilities, the wide experience, and the distinguished reputation of Mr. Dampier, and I think that the fact that, notwithstanding amendments in regard to constitution, and additions which are in a great measure of the nature of consolidation of special Acts, the main lines of the old Act have been adhered to, and the greater part of its framework maintained, is a satisfactory testimony to the skill and knowledge of its framer. But he has himself admitted that its provisions as regards election have proved a failure. Indeed, it was hardly open to him to do otherwise, seeing that they have not been applied to a single Municipality in the Province. Three Municipalities had the privilege of election before it was passed, and those three alone have it to-day. The Hon. gentleman attributes the failure to the proviso regarding the petition from one-third of the electors—a proviso which, in his own words, in the debate of 1876, was adopted as a check on the Magistrate—and he calls it an obstruction, and has discarded it. I wish I could believe that in doing so he has been actuated by a real desire to promote the elective principle, but I am afraid, from his general tone and the sequence of his proceedings. that, to use

his favourite illustration of the ship, of which we have heard so much to-day, the discard is only a part of the operation of throwing bulk overboard. We have had many indications of this, and I have watched the tactics of, I will not say his attack, but his retreat, with much interest and attention. The spectacle of a retiring enemy gradually divesting himself of his *impedimenta* to facilitate his flight can never be witnessed by an adversary with indifference. In his first amendment the Hon. gentleman threw away the proviso regarding the antecedent petition by one-third of the rate-payers, retaining, however, the words of the old Act regarding the formal appointment of the Commissioners by Government. In his second amendment he still further lightened his load by casting off these words, and in this he was undoubtedly right, for the words had no meaning at all taken with the preceding section; but still he seemed uncertain where to turn. He then disappeared from view under a convenient but ambiguous phrase regarding "corresponding alterations in the subsequent sections." He has now been driven from his last cover and defeated. But I have only just learnt the extent of his disaster. Not only has he been defeated, but he has lost his armour, and he is a fugitive in Mr. Beverley's camp. He has thrown away in his flight even the buckler of principle, flying as Horace fled from Phillippi, *relictâ nonc bene parmulâ.* For, such is the price which the Hon. gentleman has had to pay for the unholy alliance into which he has just entered with the Hon. Mover of the second amendment. In the amendments, such as they were, which the Hon. gentleman himself proposed, the principle of the old Act was adhered to. But the amendment of my Hon. friend, Mr. Beverley, as I have already said, recognises a totally different principle. The principle of the old Act was, that nomination should be the rule and election the exception. The principle now adopted is, that nomination shall be the exception and election the rule. The nomination principle is dead; it has been abandoned on the field by the Hon. gentleman. I will not dwell further upon this melancholy episode, but will simply congratulate the Council on the clearing of the issues before us. The principle of election having been accepted, the first question is—Shall we make it of universal application, or shall we recognise that some places are not yet fitted for it? The former course has not been recommended by the Select Committee, though I confess that personally I should not have been opposed to it, for I think that with the safeguards we have adopted, the objections to it will hardly bear examination. We have heard a good deal on the subject of the elective system from the Hon. gentleman opposite. Mr. Dampier has favoured us with some very beautiful and striking illustrations derived from nautical operations, and these deserve attention, for the Council are probably aware that no member of the Civil Service has had such opportunities for obtaining experience of this character as the Hon. gentleman himself has enjoyed. We have been invited to consider the Lieutenant-Governor a Pilot, this Council a Captain, and a Mofussil Municipality a Crew. A ship manned by ourselves and the Municipal Commissioners is nearing a harbour. The Lieutenant-Governor offers his services as Pilot, which are declined. The ship is then wrecked. I suppose that we are all

The Hon. Mr. Macaulay.

drowned, for a good Captain sticks to his ship, and of course we are, so far, a good Captain, but we have not been supplied with the details of our fate. The picture is a lively one, but its general lines are far from clear. Then we had a further illustration of another ship sailing among shoals, the purport of which, I confess, I could not understand at all. I gathered, however, that sands do not shift so much in English as in Indian waters. This is a question of submarine geology which I do not feel myself competent to discuss. Mr. Beverley placed before us an array of opinion from officers of Government, and from the Commissioners of certain Municipalities against the introduction of the elective system into certain places. Indeed, his extracts were so copious that but, for an unwillingness to interrupt him, I could, I think, fairly have suggested that they would be more pertinent to a discussion on the details of the Schedules than to a discussion on the general principle. One thing at least they cannot have failed to bring home to the Council, and that is, that we have ample material before us for constructing the Schedules. As regards the opinions of local officers, I will only point out that Mr. Beverley has read from unfavourable reports, and that other reports of a very different character are to be found among the papers. It appears that the Municipal Commissioners of Patna consider that their Committee will be turned into a bear-garden if the elective system is introduced. The Commissioners of other Municipalities object to the system chiefly on the shadowy ground that it will fail. I should be disposed to receive with considerable reserve the opposition of these gentlemen to a measure which they apprehend will lead to their own extinction. I do not believe that it will. I believe that in most cases practically the same men will be returned as we now select. But they evidently apprehend that they themselves will be excluded. Both the Hon. gentlemen opposite (Messrs. Dampier and Beverley) appear to overlook altogether the safeguards which we have adopted. Government in all cases nominate one-third of the Commissioners: if the rate-payers do not elect the other two-thirds, Government can nominate them also, and ample powers are reserved for Government, acting through the local officers, to compel the Commissioners to do their duty, and to restrain them from doing evil. Many officers have expressed the opinion that precisely the same class of men would be elected as are now nominated, and this has certainly been the experience of Kishnaghur, Serampore, and Burdwan. It is not pretended that the people will all at once take a vehement interest in the matter; but, if we guard against harm being done, why can we not at least give them the opportunity? My Hon. friend Mr. Dampier himself admits that Government should go in advance for the purpose of gradually exciting interest. Why then should we be deterred by the fear of apathy only, when we have the power of nominating Commissioners if the people will not elect them? I confess I do not understand the terror which seems to seize upon some people when they come face to face with the elective system. Whether they fear a revolution or fear a collapse they do not say; but that their knees are loosened by some vague apprehension, if the elective system is widely extended, is only too apparent. For my part, I cannot

see that, with the safeguards with which we are armed, there is any fear either of a revolution or of a collapse. But as the Select Committee have decided to recommend that the system be withheld for the present from some backward Municipalities only, I am content.

The next question is, how is the power of restriction to be exercised? The amendment of my Hon. friend would leave it to the discretion of Government. The majority of the Select Committee, and, I trust, the majority of the Council, consider that it should be exercised by the Council, and that we should at once declare the exceptions to the general principle, leaving it to Government hereafter to extend the system to any of the excepted places, or, in extreme cases of misconduct, to place any Municipality on the list of exceptions. And this, I submit, is the proper course to pursue. My Hon. friend Mr. Beverley has raised the legal question whether the Council has power to deprive Government of the privilege of extending or introducing the franchise. I do not feel myself competent to discuss such a question with any authority; but I confess that, as a layman, I am unable to see the force of the objection. This Council gave the elective system absolutely to the Calcutta Municipality, and Government could not now withdraw it. If we declare that in one Municipality the elective system shall prevail, why should we not, if we choose, declare that it shall prevail in all? I am not aware that the Legislature in England is supposed to interfere with the prerogative of the Crown in conferring the franchise. I observed, Sir, that you shook your head when the Hon. gentleman was expounding his view, and I am glad to hope that I may claim the weight of your opinion in favour of that side of the question which I venture to support. My contention in regard to the authority which should exercise the power of restriction is simply this. We have accepted the principle of election. Having accepted it we are bound to see that it is not violated. It is for us to give it legislative protection, and not leave its adoption or rejection to the discretion of any other authority. I may say at once that, if the amendment is carried, the result will be much the same as if it is lost. The Council may have every confidence that there is no danger of power being abused by the Head of the Bengal Government within six months of the passing of the Act. But however well founded this confidence may be, I submit that it affords no jurisdiction for admitting a provision which might conceivably be so worked as to negative the principle which has been deliberately adopted. We propose to affirm the principle of election. Yet the amendment, if carried into law, would make it possible for the Lieutenant-Governor, within six months of the passing of the Bill, without even recording a reason to disfranchise every Municipality in the Province outside Calcutta, by a stroke of his pen.

So much for the question of principle. Now, as regards the application of the power of exclusion. The Council will observe, as I have already said, that under the amendment now before us, the Local Government can only exercise its arbitrary power within six months of the passing of the Act. The amendment, while leaving untouched the power of Government to exclude for miscon-

The Hon. Mr. Macaulay.

duct, does not recognise any power of exclusion on account of changes in general circumstances or in general policy, such as was foreshadowed in the lost amendment of Mr. Dampier. It assumes in fact that Municipalities should be judged according to their present circumstances. This appears to me to be a reasonable and proper principle. The only question is who is to be the Judge, the Government, or this Council? I conceive that the only reasonable ground on which the elective system can be withheld from a Municipality is the extreme backwardness of the place, and the extreme ignorance and apathy of the people. Now I submit that the Council is in as good a position to judge of these conditions as the Government can be. We have before us all the material that is available for the formation of an opinion. I appeal to the speech of my Hon. friend Mr. Beverley, to show how copious is the material that we have before us. We have the views of local bodies and the opinions and recommendations of local officers. By coming to a decision upon them, we safeguard the principle which is the corner-stone of this part of the Bill, and I submit that we should discharge our function by deliberately extending the privilege to every Municipality which we may consider fit to receive it.

I have referred, Sir, in the course of my remarks, to the opinions of our President, whose absence from our deliberations we so much deplore. I am glad, however, to be able to say that I have reason to hope that, at our next meeting, we shall see him again in the Chair, and that he will have an opportunity in closing this debate, of declaring to the Council the broad and liberal views by which he has always been actuated in the consideration of this question of municipal reform.

The Hon. HARBANS SAHAI said:—I entirely agree with what has fallen from the Hon. Mr. Macaulay. I have only to refer to the recorded opinions just read by the Hon. mover of the amendment. He thinks that the present Municipal Commissioners and the general Public are one and the same body. I beg to inform the Council that it is nothing of the kind. The Hon. gentlemen relies on their opinion that certain Municipalities are not in a position to receive the boon of the elective system; but it should be remembered that the present Commissioners are the nominees of the Magistrate, and have been recommended by him as proper persons to be Municipal Commissioners; and the Government has simply complied with the nominations of the Magistrate. These gentlemen are afraid that, if this Bill is passed, they will be turned out; therefore, not only have they disapproved of the Bill, but they have tried their best to influence the opinion of the Magistrate in the matter. If it had been the deliberate opinion of the Public, or rather of the people, I admit it would have carried much weight. But if the present Commissioners were asked whether they thought the men, who are to be appointed in their place, will be proper and fit persons to be so appointed, it will only be natural for them to say that the men would not be fit to become Commissioners. Could, therefore, the Council rely much on the opinions of the present Municipal Commissioners? And as regards the Magistrates, there can be only two opinions. In the first place,

the Magistrates have naturally to consult the Municipal Commissioners, and they are much influenced by their opinion. Moreover, as Hon. Members are aware, in Mofussil Municipalities the sub-divisional officers and other Government officials are the Chairmen, and those officers and others employed under the Municipality must have strongly advised the Magistrate against the wholesomeness of the provisions of the Bill; consequently, much reliance cannot be placed on the opinion of the present Municipal Commissioners.

The Hon. KUMAR BOYKANTONATH DE said:—I do not see the necessity for the substitution proposed by the Hon. Mr. Beverley. When a Municipality is once declared by a notification as belonging to the first or the second Schedule (which is the object of the last clause of section 8 of the Bill), it will very easily be known whether the provisions of sections 14, 15, 16 and 24 are applicable to such a Municipality. I am therefore opposed to the amendment before the Council.

The Hon. MR. DAMPIER said:—I should like to explain, shortly, why I intend to vote for the amendments which are now before the Council. My opinion was, and is, that in deciding on the degree of municipal freedom to be exercised by any Municipality, the Executive Government should be left absolutely free to judge whether it will admit to full municipal freedom or whether it will impose restrictions. Whichever direction the Lieutenant-Governor may wish to take, he should have a level road before him. That principle I admit to have been rejected by this Council on my amendment. I understand the principle of the amendment before the Council now to be that the Council shall affirm that, subject to exceptions, every town which was a Municipality under the old law is qualified to exercise full elective freedom. As I have said, I do not agree to that view, but the Council having refused to accept my views, I come down to those of the Hon. Mover of the present amendment, and I vote for his amendment, which says that, exceptions apart, we acknowledge every such town to be qualified to exercise full municipal privileges; we throw the whole dead weight in favour of full privileges. If the Lieutenant-Governor wishes to restrict any Municipality in the exercise of such full privileges, he has to go uphill. If he does not act within six months, then the full elective system takes effect in each Municipality. I accept even this as something better than the principle of the Bill as it stands, which makes this Council undertake the classification of Municipalities according to degrees of privilege to be exercised; therefore I shall vote for the amendment.

I am not surprised that the Hon. Member opposite (Mr. Macaulay) did not care to answer what I detained the Council so long in saying. It appears to me that he has not answered it in any single point, and as my amendment has fallen to the ground, perhaps it is not necessary to do so. But I should like to know whether I correctly heard the Hon Member to say that in my speech I said that this Council had heard the last note of opposition sounded to the extension of municipal freedom.

The Hon. Harbuns Sahai.

The Hon. Mr. Macaulay.—What I said was that I hoped that the Council had heard the last note of opposition to the principle of the municipal franchise. I proceeded to point out that whereas the Hon. Mr. Dampier's amendment, which had been lost, adhered to the principle of the old Bill, he had abandoned that, and adopted the amendment of Mr. Beverley.

The Hon. Mr. Dampier *continued.*—Taking the Hon. Member's sentence exactly as now put, I repudiate the position that anything I have said to-day can be construed into any opposition to the principle of municipal franchise. My dissent to the Select Committee's report, and my amendments, only raised a question as to the mechanism by which the applicability of that principle to individual cases shall be judged.

The Hon. Member mentions my connection with the Act of 1876. I say that, whatever he has been able to say to-day in favour of a further extension of the municipal system, is due to the development of that system under the Act of 1876. The reasons for imposing the restriction of section 16 of the Act of 1876 existed eight years ago, and I have said to-day that the reasons still exist in some degree. But I think that although the reason for caution exists, the particular way of being cautious on which section 16 of the Act of 1876 insisted has been found to fail, and that, therefore, it should be abandoned.

Then the Hon. Member has spoken about the anticipation of dreadful things which were to happen, and the terror which was felt by Members who wished to be cautious in our progress. On the present occasion, he has heard nothing from me to which such expressions can be applied, for I have studiously avoided using a single word of exaggeration, or anything which should have a sensational effect.

Much has been made by the Hon. Harbuns Sahai of the fact that the Lieutenant-Governor, the Executive Government, might at any moment disenfranchise any Municipality. Has not there been other legislation in India on the subject of Local Self-Government? Has any other legislature seen the force of this objection? Has Bombay, has the legislature passing the law for the Central Provinces, or any other Province? Has not the legislation for other Provinces adopted the principle of leaving it to the Local Government to exercise the power of withdrawing privileges which experience may show to have been unwisely conferred? I speak under correction. I am not aware whether this is so or not.

Then the Hon. Member said that we have ample materials before us to judge as to the proper action in each case. I will again take Uterparah. Can it be said that we have sufficient materials here? Does not one of the contending parties pray this Council to call for the records of the Bengal Government in the Medical and Municipal Departments, where the question was fully discussed and considered, before taking upon itself to reverse the deliberate decision then arrived at by the Government as to the propriety of withholding the franchise? Which alternative is it? Is it

that the records in question are already fully placed before this Council? Or is it the Lieutenant-Governor for the time being called for a number of unnecessary papers before coming to a decision on the subject?

One more point was this.—The Hon. Member, the mover of the amendment, has given a string of instances in which not only the local officers, but Muncipal Commissioners, have objected to the elective system being introduced. To these it has been speciously replied that the Municipal Commissioners are not the elect of the people, and, with somewhat less of delicacy, it has been said by the Hon. Member opposite (Babu Harbuns Sahai) that these gentlemen (I am putting a gloss upon his words) have not the independence and impartiality by which the coming men will be distinguished. Putting aside any considerations for the public good, they have, according to the Hon. Member, simply exerted themselves, not only by giving an opinion against the elective system, but by influencing the opinions of the local officials, to prevent the introduction of election so as to avoid being turned out of their places by the elected men. I would ask the Hon. Member what else we are to do to get at the opinions of the people? Do not these Municipalities, as a general rule, contain certain independent members? Have not the Government, as a general rule, added to its own servants, as Municipal Commissioners appointed by Government, several independent non-officials? Men of the very class who may expect to come in by election? And, if so, I ask whether municipal bodies so constituted are not the nearest approach available to us to ascertaining the wishes of any particular community concerned? If this is not the nearest approach to the expression of popular feeling, have Hon. Members who take the other view anything better to give us? If, in such and such Municipalities the Commissioners have voted against the elective system, can Hon. Members, who answer us by saying that the present municipal bodies consist of interested men whose opinions are worthless, say—"Here we lay before you now the real representations of what may be called reasonably the sense of that particular community on this point?" They have nothing of the kind to show us.

The Hon. Mr. Reynolds moved that the further debate on the amendment be adjourned to the next meeting of the Council.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 2nd February 1884.

The Hon. Mr. Dampier.

Saturday, the 9th February 1884.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President.*
The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel The HON. S. T. TREVOR, R.E.
The HON. H. BEVERLEY.
The HON. MAHOMED YUSUF.
The HON. HARBANS SAHAI.
The HON. W. L. ALEXANDER.
The HON. KUMAR BOYKANTONATH DE.

HOWRAH AND SUBURBAN POLICE.

The HON. MR REYNOLDS moved for leave to introduce a Bill to regulate the Police in the Municipalities of Howrah and the Suburbs of Calcutta. He said:—The Municipal Bill which is now before the Council does not authorise the application of any part of the Municipal funds towards the payment of the Municipal Police. In the Statement of Objects and Reasons, which was laid before the Council with the first draft of the Bill, the question of Police was referred to in the following words:—"Part V of the present Act, relating to Municipal Police, has been omitted from the Bill. Howrah and the Suburbs of Calcutta are the only Municipalities which have not already been relieved from the charge of maintaining the police force required for their watch and ward, and a separate Bill to meet the cases of these two Municipalities will be introduced hereafter." This is the Bill which I have now to ask the leave of the Council to introduce. It is impossible, upon financial grounds, for the Government to undertake to bear the entire expenditure of the Police of Howrah and the Suburbs of Calcutta. The expenditure on account of Police in the Suburbs is about one-and-a-half lakhs, speaking in round numbers, and in Howrah about half a lakh. Until recently, the Government has borne one-fourth of the cost in each of these Municipalities; that is to say, about Rs. 38,000 in the Suburbs and about Rs. 12,500 in Howrah. Lately, in consideration of the extra expenditure to be entailed on the Suburbs in the proposed extension of the water-works, Government have agreed to bear one-half of the cost in the Suburbs, and still bear one quarter in Howrah. Under the Bill which I have the honour to ask leave to introduce, it will be proposed that the Government shall bear three-quarters of the cost in both the Municipalities of Howrah and the Suburbs. That will raise the Government contribution to something like Rs. 1,15,000 in the Suburbs and about Rs. 37,000 in Howrah, leaving the balance of expenditure to be borne by

those Municipalities. The Bill will be a very short one, and will be based simply upon Part V of the present Municipal Act.

The motion was put and agreed to.

EXTENSION OF LOCAL SELF-GOVERNMENT.

The HON. MR. MACAULAY said :—I have the honour to move that the Hon. Mr. Beverley be added to the Select Committee on the Bill to extend the system of Local Self-Government in Bengal, in the room of Mr. Allen. I am glad to have this opportunity of saying a few words on the course which events have taken regarding this Bill since I had last the honour of addressing the Council on the subject. Hon. Members are aware that, when the Bill was referred to a Select Committee at the close of last sessions, the scheme of control by a Central Board had been recommended to the Secretary of State by the Government of India. There was every reason to hope that sanction would soon be received, and that the opinions of the local officers upon the Bill might be received in time to admit of the Select Committee framing a report early in the current session. These hopes have not been realised. Early in August the Government of India communicated to us the refusal of the Secretary of State to sanction the scheme of a Central Board, and the Lieutenant-Governor was invited to consider a suggestion made by the Secretary of State to entrust most of the powers which it had been proposed to confer on the Central Board to District Committees presided over, at all events in the first instance, in most cases by the District Magistrate. The Lieutenant-Governor considered that there were objections to this proposal. He adhered to the view which he had previously expressed, that the efficient and independent working of the Local Boards would be endangered by the establishment of District Committees. He pointed out, moreover, that as it was admitted that some of the powers of the Central Board could not be entrusted to any local body, but must be reserved to Government, or at least to the Commissioner of Division, a District Committee constituted as proposed would be neither a working body nor a thorough controlling body. Again, the Lieutenant-Governor considered that the Chairmanship of the Magistrate would not be satisfactory either to the Committees or to the Magistrate himself; and he urged that the proper position of the Magistrate was outside and above the Local Boards, as controlling authority in the district, his duties being confined to advice, direction and supervision, and only in cases of necessity, and with the sanction of the Commissioner of Division, extending to initiation. He therefore proposed to adhere to the sub-divisional Board as the largest ordinary unit of administration, control being exercised, within precisely defined limits, by the Commissioner of Division, working through the Magistrate of the District, and certain exceptional powers being of course reserved to Government. These proposals were accepted by the Government of India, and recommended to the Secretary of State. We have now learnt, however, that the Secretary of State adheres to his scheme of District Committees presided

over, at any rate in the first instance, in most cases by the Magistrate of the District. I propose therefore to invite the Select Committee to proceed at once to assist me in re-casting that portion of the Bill which relates to control, care being taken to leave the appointment of an official or a non-official Chairman of the District Committee to the discretion of the Lieutenant-Governor. I hope that our report may be ready for the consideration of the Council within three weeks, so that the amended Bill may be published for general information before the close of this session. The opinions of the various officers of Government and of public bodies will then be invited, and I hope the measure will be passed into law early in the next session of the Council. I may add that the Secretary of State takes no exception to the general scheme of the Bill apart from the system of control. We shall, therefore, I trust, be able to provide for a large measure of initial independence to the Local Boards, and I should hope that there will be no objection to providing, as in the case of Branch Committees under the Cess Act, for Local Boards being in special cases declared independent of the District Committee. We should thus be able to give freer scope to such elected Boards as I hope to see established in Serampore, for instance, and Ranaghat.

The mention of elected Boards leads me to say a few words regarding Union Committees, which are to be the general basis of the system of election. The Lieutenant-Governor was anxious that no time should be lost in making the preliminary arrangements for the construction of Unions in selected sub-divisions, so that on the passing of the Act the ground might have been cleared for its practical application, and for the establishment of Local Boards on the elective constitution designed for them. In order, therefore, to secure both uniformity and despatch, he determined to intrust the supervision of the necessary proceedings, in communication with the local officers, to a special officer, and for this duty he selected Mr. Westmacott. The excellent manner in which Mr. Westmacott is discharging the duty entrusted to him will, I have no doubt, be acknowledged by Government in due course. I am glad to say, too, that the Sub-Divisional Officers, notably Mr. Collier of Serampore, Mr. Ritchie of the head-quarters sub-division of Nuddea, and Baboo Ram Charn Bose of Ranaghat, have taken the keenest interest in the work, and have displayed great energy and ability in carrying it forward. Progress reports have been received, and, with the permission of the Council, I will read portions of them. Mr. Collier says:—"With reference to the attitude of the educated classes, I am of opinion that it has been quite satisfactory. I have seen no signs of an attempt on their part to monopolize the power of election. On the contrary, I have been struck by their evident wish that those persons who possess the confidence of the majority of the people should be elected. The theory of popular representation appears to be perfectly familiar to all classes. This is owing, no doubt, to the fact that such representation forms part of their ordinary system of managing village and caste affairs. On the other hand, I have not found any disposition on the part of the educated classes to hold altogether aloof. They appear perfectly willing to serve if elected, and also come for-

ward to vote." And again:—"The usual praise of a popular candidate is that he is 'a very straight man,' 'a very just man,' and so on. The ryots understand that the Committees will have certain sums of money to spend for the benefit of the community. They look upon the members elected as trustees on their behalf, and therefore are particularly anxious that they should be men whom they can trust. I do not mean to say that they lay no stress upon education and intelligence, but I think that what they look at chiefly is honesty and fairness. In my opinion, they are quite right. The electors are, I believe, very good judges of character. The men they have chosen are probably the best who could have been selected." Again—"From the lists already submitted, it will be seen that the representatives come from many classes. Zemindars, jotdars, medical practitioners, money-lenders and traders are about all, I think. The impression on my mind from the elections that I have held so far is, that there is much more harmony among the various classes in the Mofussil than I had previously supposed. One is always liable to be too much influenced by one's judicial experiences in such matters, forgetting that they are necessarily confined to the darker side of things. The representatives elected undertake the work quite willingly." Of the Kishnaghur sub-division of Nuddea, Mr. Ritchie says:—"All classes of the people have come forward as electors. The local Zemindars have usually been present, and contingents both of the 'bhadra' and the 'chasa lok.' They (the educated class) have not held aloof at all. They appear to me to be in harmony with the people and to possess their confidence. I have found no difficulty in any case in reconciling the wishes of the common people with those of the educated classes." In Ranaghat the average number of electors present was nearly 65 for every hundred household. Mr. Westmacott concludes his report with these words:—"I think that the experiment has so far proved most satisfactory; that the rural population is really desirous of being represented by men in whose hands their interests will be safe; that they consider that there are such men among their substantial and respectable neighbours, and that these men are willing to undertake the management of local affairs for the public benefit." In a later report Mr. Collier, speaking of a very largely attended rural election, says:—"The contrast between these figures and those which represent the attendance of rate-payers at municipal elections is very remarkable. I am at present strongly inclined to the opinion that the explanation is to be found in the difference of the modes of election. The simple one, that of calling the people together and letting them choose their own representatives, is one which they understand, and which accords with their traditions, practice and modes of thought. The going up singly to a polling booth and recording their votes without any discussion is a method which is exactly the reverse. With the other system it is impossible not to observe that the people take not only a keen interest, but also a considerable amount of pleasure, in the elections." Now, Sir, I commend these results to the consideration of those who sneered at the system of Union Committees, and who told us so confidently that the people at large would take no interest whatever in the management of their village schools,

The Hon. Mr. Macaulay.

roads and water-supply; who told us that no one but a few half-educated, penniless adventurers knew or cared anything about Local Self-Government; who told us that there could never, under any circumstances, be any sympathy or any touch between the educated classes and the agricultural classes in this country. I think these results show conclusively that in the Union system we have hit upon the very best means of interesting the people at large in the management of their own affairs, and of establishing a compact, intelligent, interested body for the election of members for the higher administrative Boards. I commend these results especially to the consideration of those who apprehend failure from the general extension of the elective system to Municipalities. We are told that the elective system has not succeeded in Serampore town. Yet we find that it has succeeded beyond all expectation in the rural Unions in the Serampore sub-division. Is the failure the fault of the people, or the fault of our administration of the system? In Serampore town, of course, we know that the circumstances have been special, and that the system has suffered simply from atrophy. It flourished with a household franchise. In 1880 the qualification of voters was raised to Rs. 4. The people at once ceased to show any interest in the matter by giving their votes in large numbers, for the simple reason that nine-tenths of them had no votes to give. The constituency was at one stroke reduced from about 7,000 to about 600. The system flourished before, and will flourish again, in Serampore, with a proper franchise. But we need not look only to places like Serampore and Burdwan. In them the elective system would naturally succeed. But look at the smaller Municipalities. They are at least as advanced, in Bengal at any rate, as these groups of villages, and if we find 60 per cent. of the villagers in Ranaghat sub-division coming forward to elect the members of these Union Committies to administer the affairs of their Union, is it not reasonable to suppose that, with a mode of election suited to their ideas and traditions, the rate-payers of the smaller Municipalities will take an interest in the election of the Commissioners to administer the affairs of their Municipality? Mr. Collier's last report opens up an important subject for the consideration of the local officers and Government in regard to the method of election. Meanwhile, I think we may congratulate ourselves upon the excellent results of what I may call this preliminary application of that part of the Bill which refers to Union Committees. I have now the honour to ask that the motion which stands in my name may be proposed to the Council.

His Honor the President said:—I wish to add for myself a few words to the remarks which have fallen from my Hon. friend Mr. Macaulay on the subject. The question of introducing a Bill for Local Self-Government has naturally attracted the attention of the Press and the Public, and the Government of Bengal have been taken to blame for the delay which has occurred in introducing and carrying out this measure. It has been objected to us that, while the other Provinces have received their measure, and passed Acts for carry-

ing out this system, Bengal is still in the background, and there is nothing known as to what course the Government is going to take in the matter. From the observations which my Hon. friend Mr. Macaulay has addressed to us, I think it is clear that, if there is blame, it does not attach to us. We have been in correspondence since the last session with the Government of India, and the Government of India with the Secretary of State, upon several of the important principles in connection with the measure, and I may add that the correspondence is not yet finished. We have not received the last despatch, which we understand is coming out from the Secretary of State. But we do know this, that while the Secretary of State has rejected our proposal for a Central Board of control, he has also gone further and adhered to a suggestion which he had previously made, that the system of Local Self-Government should have, in connection with it, District Committees, and that District Committees should, at the first starting of the measure at any rate, be under the presidency of the District Magistrate, and that the Magistrate should have the supervision of the Commissioner of the Division. That is the final decision of the Secretary of State, and is one which we can no longer contest. Now I do not regret the delay which has occurred in dealing with the question, because it clears the way for our consideration of the whole subject in the clearest manner. The Bill has been introduced into this Council, and has been referred to a Select Committee, and is now before that Committee. But the lines upon which the Bill was drawn will have to be considerably re-cast in deference to the views of the Secretary of State, and it will be for the Select Committee to consider in what form that re-casting should take place. The Hon. Mr. Macaulay has stated, and it is intimated in the despatch of the Secretary of State, that these District Committees should be rather Committees of control than Committees of administration. They are, in all cases nearly, to be presided over by the Magistrate of the District. I think it is quite open to the Select Committee, if they should think fit to do so, to consider whether there should not be an enlargement of that point; that is, while the Magistrate of the District should be at their head, whether they should not take upon themselves administrative duties in addition to duties of supervision and control. If that should be sanctioned by the Select Committee, it will be for the consideration of the whole Council, after having had an opportunity of consulting the District Officers, whether that shall not form part of the Bill; that is to say, that District Committees should be, in addition to Committees of control, as well Committees of administration.

I also do not regret the delay myself, because we are now considering the equally important measure as regards Municipalities. I have every confidence that that measure will, if possible, be passed in February, and after it is passed a great deal will devolve upon the Executive Government and its Officers in giving effect to the Act throughout the country. It will entail a good deal of time, consideration, and trouble, and I should be very sorry to have to bring into operation two Bills of that kind at the same time. If we can satisfactorily establish a wider and more independent system of municipal administration

The President.

this year, and can see it established in all our districts, I think we shall have done very good work; and it will be very well to leave to the next session to finish the other Bill about Local Self-Government, because, with the Select Committee's report on it before the close of the present session, we can refer it to local officers for opinion, and next session be ready for its final consideration and disposal. We shall then have the advantage of seeing the system of Municipalities established this year, and ask you to take in hand the larger question of Local Self-Government next year. I should be sorry to have two such large measures in hand at the same time.

The motion was put and agreed to.

BENGAL MUNICIPALITIES.

On the motion of the Hon. Mr. Reynolds, the Council proceeded to the further consideration of the Bill to amend and consolidate the law relating to Municipalities.

The adjourned debate on the Hon. Mr. Beverley's motion to omit the last clause of section 8 and substitute the following in its stead was resumed :—

"Every notification declaring a town or village to be a Municipality shall specify (subject to the provisions of section 13) the number of the Commissioners of such Municipality, and whether or not the provisions of sections 14, 15, and 16, and of section 24, shall apply to such Municipality.

"Notwithstanding any such notification, the Local Government may at any time by an order published in the *Calcutta Gazette* extend the provisions of the said sections or any of them to any Municipality."

The Hon. Mr. Reynolds said :—The division which was taken at the last meeting of the Council absolves me, I think, from the necessity of replying to a good deal of what has been urged by the two Hon. Members who have moved these amendments. That division may fairly be considered to show that a majority of the Council are in favour of the scheme of specifying certain Municipalities in Schedules appended to the Bill. Some arguments have been used in the course of the debate which seem to me hardly to require a serious answer. The Hon. Member whose amendment we are now discussing suggested (if I heard him rightly) that the Bill was beyond the powers of this Council to pass, as being an encroachment on the prerogative of the Crown. The Hon. Member must surely have forgotten that the Bill only asks the Council to do for certain Mofussil Municipalities what it has already done for Calcutta. It is only in virtue of a vote of this Council that the elective system has been established in the Calcutta Municipality, and what the Legislature could do for Calcutta it can do for Dacca and for Hooghly. Then the Hon. Member on my left (Mr. Dampier) said that, on the analogy of the English Municipal Acts, the Charter of incorporation ought to be granted by the act of the Executive Government. Certainly; but what has the Charter of incorporation to do with the election of Commissioners? The Municipalities which we are discussing have received their Charter of incorporation already: those which may be

created hereafter will receive theirs in the same manner. But putting aside those considerations, which I can scarcely suppose to have been intended to be taken seriously, I wish to say a few words in explanation of the course which the Select Committee have adopted, and I quite admit that such an explanation is due to those Members of Council who were not Members of the Select Committee. We have been asked what principle the Select Committee has followed, and how far the particular recommendations we have made are in accordance with that principle, or with any principle at all. The object we have sought to attain is discussed and explained in the letter of the Government of Bengal, dated the 5th July 1882. That letter declares "that the Lieutenant-Governor will be prepared, as a rule, to extend the elective system to all first class Municipalities and all the larger Municipalities of the second class. It is remarked that "the law constituting and regulating Mofussil Municipalities has now been in operation for many years: the area over which such Municipalities exercise jurisdiction is limited and well defined: and the places at which such Municipalities have been established are generally centres of trade and population, where we may expect to find not only men of education and culture, but men who have gained practical experience of municipal administration under the system which has been in force during the last twenty years." It is expressly stated that "it is entirely the wish of the Lieutenant-Governor that the partial failures of past limited experiments should not be accepted by district officers as a sufficient reason for declining to extend the trial to other Municipalities." Then, with regard to the appointment of a Chairman, the letter goes on to observe that, "in the mofussil, the presence of the chief executive officer at the head of the Board has very frequently the effect of discouraging the free expression of independent opinion: and, though this may be materially altered by the working of the elective system, still there can be little doubt that the object of encouraging Local Self-Government would be promoted by the removal of this overshadowing influence, sufficient power being retained to compel the Commissioners to discharge their duty to the Public, should they persist in neglecting it." These being the objects to be attained, there were three ways in which we might have sought to carry out our instructions. We might have adopted the plan of the Hon. Member on my left, (Mr. Dampier) which allows the Government at any time to enfranchise or disfranchise a Municipality at its pleasure: or the plan of the Hon. Mover of the present amendment, which leaves the first decision of the matter with the Government, but declares that the decision must be made within six months after the passing of the Bill: or the plan adopted in the Bill, which leaves the question, as regards existing Municipalities, to be settled by the Legislature. We had no hesitation in rejecting the plan of my Hon. friend on the left. Such a scheme would not have been a scheme of genuine self-government at all: it was opposed to the orders of the Government of India, and it would have been little better than a fiction and a shadow. If we had adopted the Hon. Mr. Beverley's plan, we should have done so in the fullest confidence that the power thus given to the Lieutenant-Governor would be wisely, righteously, and

The Hon. Mr. Reynolds.

liberally exercised. But it appeared to us that this was a matter of principle, and that it was inconsistent with the objects which the Bill was intended to secure that the power of defeating its provisions should be left in the hands of any individual, even of the Head of the Government itself. We therefore adopted the scheme proposed in the Bill, and we did so, as the Council has already been informed, with the full concurrence of His Honor the Lieutenant-Governor. The plan of specifying certain Municipalities in Schedules was suggested, if I remember rightly, by the British Indian Association, and the precedent of the Embankment Act was referred to—a precedent which seems to me very applicable to the present case. Hon. Members will perhaps recollect that certain Schedules were annexed to the Embankment Act of 1873, and it was declared that such embankments as were specified in one of those Schedules should be repaired and maintained at the expense of the Government, and that other embankments which might be taken over should be repaired at the expense of the Zemindars concerned. It seems to me that this Council is as competent to decide whether the elective system should be introduced into certain Municipalities, as the Legislature was to determine whether certain Embankments should be repaired at the expense of Government. This, then, was the principle which the Select Committee followed, that the full elective system should be extended, by the action of the Legislature, to all the larger and more advanced Municipalities, unless in particular cases there was special reason for excluding them from the operation of the system.

Before I proceed to notice particular cases, I wish to glance at an argument which was put forward by my Hon. friend to the left (Mr. Dampier). He said:—"You admit that there are circumstances which would make it undesirable to extend the elective system to certain Municipalities: what guarantee have you that those circumstances will not arise hereafter? You admit the existence of party spirit as one of those circumstances. How are you going to be sure that it will not arise when the elective system has been extended?" That is an argument which the Hon. Mover of the amendment which we are now considering is not entitled to use, because the difficulty, if there be a difficulty, is not met by his amendment; but no doubt the Hon. Member on my left is entitled to use it. I might think it sufficient to reply that the question has been disposed of by the division which has already been taken. But I do not wish to give such an answer. I would rather face the difficulty than attempt to evade it, and my reply to the Hon. Member would be this:—We hope with some confidence that Municipal Self-Government will of itself supply an education, the lessons of which will go far, not altogether to extinguish party spirit, but at least to prevent it from having any injurious effect upon municipal administration. I think I may say that that result has been obtained in Calcutta, and I should hope that it will be attained in the same way in the Mofussil. But if our expectations are disappointed, the Bill provides such a complete system of control that the evils which my Hon. friends seem to apprehend are not likely to arise. If party spirit makes a Municipality

too inactive, the Government has power to apply the spur. If the tendency is in the opposite direction, the Government can use the rein. If party spirit has such an effect as to render the Municipality unable to perform its duties, the Bill gives power to suspend it altogether.

I now wish to refer to some particular examples which have been noticed in the course of the debate. I will first take the case of Utterpara, which the Hon. Mr. Dampier spoke of as a crucial example. [The HON. MR. DAMPIER:—I said it was an instance before the Council.] What are the facts as to Utterpara? It is a first class Municipality; a place of considerable wealth and importance, not a straggling collection of huts, but a compact town, with schools and dispensaries, and a public library; and it is inhabited by people of more than average intelligence and education. *A priori*, it is eminently fitted for the introduction of the elective system. It is quite true that the Commissioner of the Division has reported against the extension of the elective system to Utterpara. But what reason did he give? He said that the system would be a mere farce, because you would get exactly the same members by election as you would by nomination. If that shows anything, it shows that the elective system can be introduced into Utterpara without the slightest risk. But the Hon. Member said that the Council had before it a petition from Utterpara protesting against the introduction of the elective system there, and yet it was proposed to force this system upon the people.

[The HON. MR. DAMPIER:—I said that you are going to reject a decision of the Local Government on certain papers which were referred to in the petition, without knowing anything about it. There is a decision of the Local Government as stated in those papers. If that is so, then the Council, without having good reasons, are absolutely upsetting a decision which the Executive Government of Bengal have come to on a consideration of those papers.]

The HON. MR. REYNOLDS resumed:—The Hon. Member was careful to tell us that he attached no importance to such petitions, and that they are generally worthless. But it seems that when they are in accordance with the views he advocates, they are entitled to our respectful consideration. As to what has been said of the former decision of the Government, it must be remembered that the present Bill was not at that time before the Government, and I would remind the Council that, if we have one petition from Utterpara against the elective system, we have two others requesting us to give them that privilege; and all the petitions show is that there are two parties in the town, one of which wishes to have the system and the other does not, and we have been assured by the Commissioner of the Division that by the introduction of the elective system very much the same class of Commissioners will be elected as under the present system of nomination. It seems reasonable to assume that the two parties in the town will be represented among the elected Commissioners in much the same proportion as they are represented

among the residents, and, if so, the existence of these parties is no valid objection to the introduction of a system of election. Another instance referred to by the Hon. Mr. Beverley was the Municipality of Noakholly. Now the letter from Noakholly is for the most part an expression of the individual opinion of the Magistrate. It is tolerably clear that the Vice-Chairman, who is the only native Commissioner whose opinion is noticed in the letter, did not agree with the Magistrate in his view. And what was the main point of the Magistrate's argument? He said of Noakholly, just as we have already been told of Utterpara, that the result of the elective system would be the same as that of the system of nomination. Then let us take the case of Patna. Here we have a letter from the Magistrate saying that the majority of the Commissioners do not desire the elective system. Hon. Members have seen in the newspapers a telegram from that place, on which I do not desire to lay stress, as it is not officially before us, but I may remark that the only two Commissioners whose opinions the Magistrate quotes in his letter are both of them in favour of the system of election in Patna. Indeed, the Magistrate himself seems conscious of the weakness of his cause, for he goes on to say that he concludes the elective system will be introduced into Patna. I do not see how any other conclusion could be possible. If we are going to introduce the elective system anywhere in Bengal, it would surely be a monstrous thing that a great city like Patna, the capital of a large Province, with a population of 175,000, and the centre of great wealth and commerce, should be thought unfit to have this system introduced in it. If the letter of the Magistrate had been the only expression of opinion on the subject, I should still have hesitated to agree that Patna should be excluded from the elective system. But that is not the case. There have been four public meetings held there, and at each of these there was a unanimous and very strongly expressed wish by those who attended that the elective system should be introduced. Then take the case of the city of Moorshedabad. We have a letter from the Deputy Magistrate, the Officer in charge of the sub-division, deprecating the introduction of the elective system. My answer to that is the same as in the case of Patna, that it would be monstrous to exclude places like these from the elective system. Moreover, the Deputy Magistrate's only reason for his conclusion was, that he was apprehensive that the elective system would prove to be unsuccessful. If this should be the case, the powers reserved in the Bill will enable the Government to deal with the matter. Then came Dinagepore. The Commissioners of that place only said that they did not approve of the universal introduction of the elective system. But the Bill, as it stands, does not propose to introduce the system universally. Then with regard to Durbhunga. We have two letters from Durbhunga. The letter from which the Hon. Member quoted was written on the first draft of the Bill. The later letter from Durbhunga approves generally of the Bill, and I do not see the smallest expression of opinion in it that Durbhunga should be excluded from the operation of the elective system. It is true that the Commissioners say that the Government ought to reserve the power to disfranchise any Municipality

at its pleasure. If that is the opinion of the Municipal Commissioners of Durbhunga, I have the misfortune to differ from them entirely. It appears to me that the powers which this Bill proposes to confer on the Commissioners of a Municipality, are powers which ought to be exercised not *durante bene placito*, but *quamdiu bene se gesserint*; and this is the view which I hope the Council will accept and endorse. I do not intend to detain the Council further with particular instances, but I hope that what I have said, if it does not altogether remove the objections of the Hon. Mover of the amendment, will at any rate satisfy him that the Select Committee have not proceeded in that hasty and inconsiderate way in which he appears to think they have. In fact, if the Select Committee have erred, they have erred on the side of over-caution. Where there was any reasonable doubt whether a Municipality should have a place in the Schedule they put it into the Schedule, leaving it to any Hon. Member to move its exclusion. I should like to appeal to the Hon. Member whether, after this explanation, he will not withdraw his amendment and allow the Council to go on with the consideration of the Bill.

The Hon. Mahomed Yusuf said:—Having watched the debate in the Council on the last occasion, and having read, amongst others, what the Hon. Mr. Macaulay said on the amendment under discussion, I fully agree with what has fallen from that gentleman, and I endorse every word of what he has said. It is not, therefore, necessary for me to take up the time of the Council at any length, but I desire it to be understood that the principle I advocate is, that legislation on any subject should be as perfect and complete as possible, and that very little should be left unprovided for by it. A Statute should embody all rules, and meet all cases, unless it is a matter of detail upon which the Legislature has not at present complete information. With the permission of the Council, I will read an extract (which I consider to be very relevant) from the debate on the Bill for the regulation of Coolies in Hill Municipalities:—

"The Hon. Mr. Dampier said that, before this Bill was referred to a Select Committee, he wished to draw attention to the definitions. They gave very broad powers to the Executive Government. A Hill Municipality might mean practically any Municipality in Bengal which the Lieutenant-Governor chose to say was a Hill Municipality. Then who were the coolies to whom the provisions of the Bill might be extended?—"any person included within the classes of persons specified in an order published by the Local Government under section 4." That was to say, putting an extreme case, that it was left to the Executive Government to declare that any person working for hire within any Municipality in Bengal might be brought under the Act.

"The Hon. the Advocate-General said that he agreed with his Hon. friend to the right (Mr. Dampier) that there should be a definition in the Bill, which should not be left in such doubt and uncertainty as the term "holding" was left in another Act, in which a holding was defined as anything which the Magistrate choose to declare a holding. Another point was that the rates of hire should be fixed by the Act. He thought that the persons upon whom the Act was to operate should have a right to be heard—a right to represent to to Council or to the Lieutenant-Governor by memorial their views on the subject. But if the power to fix the rates was left to executive authority, those whom the rates would affect

The Hon. Mr. Reynolds.

would be subject to their operation without having had the right to urge their objections (if any) to their sufficiency or propriety.

"His Honor the President said that the observations which had been made seemed to him to have very great force, because, personally, he should be very sorry to accept the responsibility either of defining what a hill coolie was or of taking other executive action in a matter which should properly and rightly be defined by law. Therefore, he hoped that the remarks which had been made would receive the careful attention of the Select Committee before the Bill was brought up for final consideration."

Now it cannot be said that the subject-matter of the present amendment, or that which preceded it, is such that this Council has not all the information which it should have in order to legislate upon the same on proper principles. Why, then, leave your functions to somebody else and transfer the responsibility from your own shoulders to those of others? If this were not so, it might as well be to have a single section in the Act empowering the Executive to frame rules and alter the same and extend the principle or withdraw the same, as it thought proper. In fact, the very necessity of legislation would be doubtful. But I go a step further, and submit that the Council, according to its very constitution, has advantages for providing for a subject which the Executive has not. And if the result of the two processes had been the same, we should not have had the amendments that were proposed at our last meeting. It is apprehended that this Council might commit some mistake which it is necessary should be rectified. I have one further observation to offer, and that is this, that this Council should be expected to listen to the voice of reason in the same way as anyone else. If, therefore, it is really found out in course of time that anything done by the Council is not as it should be, proper steps might be taken to remedy the wrong; and if the wrong really exists, no one need give himself up in despair. What is the use of going into the matter in a half-hearted way? Why take away with the left hand what you give with the right?

The Hon. the Advocate-General said:—I did not intend upon this occasion to trouble the Council with any remarks of my own, because I thought, having duly considered the observations made by my Hon. friend Mr. Dampier and my Hon. friend Mr Beverley, that the principle on which this amendment was proposed had been fully understood; but seeing from certain observations that the principle has been entirely misunderstood, I think it right to say a few words on the motion. The proposition which the Hon. Mr. Dampier put forward was a very simple one. It was whether this Council is in a position, having sufficient evidence before it, to determine whether the Schedule which has been annexed to the Bill is a proper one; or, in other words, whether the Council has sufficient evidence before it, to declare that particular Municipalities, except those which are mentioned in the first Schedule, shall come under the elective system. Is the evidence sufficient to justify us in taking the responsibility which will attach to us by declaring that all Municipalities, except those few specially excepted, should come under the elective system? Well, upon that subject, the

last speaker says we have before us all the evidence which the Local Government has. That is his opinion, and it may be he is right; but the Hon. Member certainly gave us no reason to suppose so. But the question still remains. The Hon. Mr. Dampier challenged the assertion that we have sufficient evidence laid before us, and the Hon. Mr. Beverley gave some very strong reasons to show that it is a question of grave doubt whether the elective system should be extended to all these Municipalities by this Council. The Hon. Member who spoke last says—and I quite endorse the opinion—that where the Council is in a position to accept the sense of responsibility, it would be cowardice on the part of the Council to shuffle it off upon the shoulders of the Lieutenant-Governor. But if, on the other hand, we have not got sufficient evidence before us, as I think we have not, it will be very wrong to assume a responsibility which more properly belongs to the Lieutenant-Governor, who has better opportunities of enquiry and before whom the parties who object to this Schedule may be heard. With regard to Utterpara, that is a notable instance; and while agreeing with my Hon. friend Mr. Dampier that we should not attach too much importance to petitions, still it appears that there is a strong feeling on the subject there, demanding a careful enquiry. My views on this question have been already before the Council, and I cannot say that I feel at all satisfied with the arguments which have been urged against them. But the principle having been accepted by a majority of this Council, I will be very glad to do my very best to support the conclusion arrived at. We must, however, take care that we do not put into any Act matter as to the propriety of which we are not satisfied. If in this particular case we are not satisfied that there is sufficient evidence to enable us to say clearly that these Municipalities should be considered elective Municipalities, then it is our bounden duty to say we shall not insert them in the Schedule. Mr. Beverley's amendment is that the Lieutenant-Governor, who has an intimate knowledge of these Municipalities, and is in constant communication with those in favour or against the system of election, should be allowed to judge. Sufficient evidence has been produced by Mr. Beverley to show us that in 20 or 30 large Municipalities there is a great diversity of opinion. Petitions have been read asking that the system shall not be introduced into them. [MR. MACAULAY corrected the Hon. speaker, saying that MR. BEVERLEY had not read any petition. MR. BEVERLEY said he had read extracts not from petitions, but from reports.] I meant reports, and there are many reports which are of more value than petitions. Of course I have the same opinion of petitions as my Hon. friend Mr. Dampier, but I think that they ought to put us on enquiry. The reports of officers who are on the spot are of great value, and we have reports from many persons who have come forward and told us that the elective system ought not to be introduced. In answer to that, the Hon. Harbans Sahai says that these are the cries of the very men who are going to be displaced. No doubt there is some truth in this remark. On the other hand, it is to be observed that although the Hon. Member's statement is one way of putting an argument, I cannot forget

The Hon. the Advocate-General.

the fact that these are the men conversant with the working of Municipalities, whose opinions, however interested, should be respected until further enquiry is made. We are not bound to reject them. What do we now propose to do? We propose that the Lieutenant-Governor shall have the power to extend the elective system after full evidence is taken that the system should be extended in particular cases. That is all that we ask, and all that the Hon. Mr. Dampier referred to. I think it would be unnecessarily taking up the time of the Council to say anything more on the subject. I must ask Hon. Members to weigh carefully and consider well the arguments put forward by the Hon. Mr. Dampier, and, so far as I have been able to judge of the debate, it does not appear to me that those arguments have been met by the Hon. Members who have spoken.

The HON. MR. MACAULAY said that as he spoke at the last meeting on the motion before the Council he had no right to speak on the present occasion, but he would ask His Honor the President whether there was any means by which he could place before the Council the telegram which had been referred to by the Hon. Member in charge of the Bill.

HIS HONOR THE PRESIDENT said he did not think there was any objection to the Hon. Member reading the telegram which he had received, with the permission of the Council.

The HON. MR. MACAULAY, with the leave of the Council, then read the telegram, which was as follows:—

"The Municipal Commissioners of Patna—26, of whom 10 are officials—we, 11 non-officials, are strongly of opinion that the Patna Municipality is quite ripe for elective franchise. Khodabux, Sukhraj Bahadoor, Alihassan, absent, but joined election meetings; Nawab Valayet Ali presided at a public meeting, where the election was unanimously resolved, and no meeting of Commissioners ever was held to discuss this question. Chairman's note, quoted by Mr. Beverley, is unknown to us. Please read this in Council. We could not consult others."

The HON. THE ADVOCATE-GENERAL asked whether the telegram which had been read was in answer to any communication which had been made to the persons who had sent the telegram.

The HON. MR. MACAULAY said that it was certainly not the case. He had made no communication whatever to the parties. He had received the telegram, and was asked to read it to the Council.

The HON. MR. DAMPIER said that from the course which Hon. Members had taken in not speaking to his amendment, though they addressed themselves to the arguments which he had brought forward in the course of their speeches on the Hon. Mr. Beverley's amendment, he had no opportunity of answering what had been said against his own motion.

The HON. MR. MACAULAY reminded the Hon. Mr. Dampier that he had spoken immediately after him at the last meeting and had endeavoured to answer him.

The Hon. Mr. Beverley said:—Sir, at the last meeting of the Council we were informed that, although the idea of appending the Schedules to the Bill was adopted by the Select Committee deliberately and of its own motion, that idea nevertheless had the concurrence of the Head of the Government. That was, of course, Sir, before you had heard what was to be said on the other side. You are now aware, Sir, that several members of your Council are opposed to the Schedules, and I am sure they may rely on your considering the question on its merits, after weighing the arguments urged on either side, and without feeling yourself bound in any way by any opinion you may have expressed before this debate took place.

I regret that it should be necessary for me again to repeat that I am in no way opposed to the elective system, or possessed by that vague terror which the Hon. Member opposite [Mr. Macaulay] has attributed to me. The Hon. Member knows as well as any one that my amendments in no way trench upon the principle of the Bill, and that his arguments tend to raise a false issue, and to divert attention from the real point of the controversy. That point, Sir, is simply this: the Bill as presented by the Select Committee recognises the two principles of—(1) election of a majority of the Committee, and (2) election of the Chairman; but it says that these principles cannot be universally introduced at present, and that there must be exceptions in both cases, *i.e.*, Municipalities which are not as yet to elect their Commissioners, and Commissioners who are not as yet to elect their Chairman. And a slender majority of the Select Committee wish to impose upon this Council the responsible and perhaps invidious task of saying what Municipalities shall be thus excepted. We, on the contrary, say that, if there must be exceptions, it is for the Local Government to decide what they shall be. We say that such exceptions must necessarily depend on local circumstances and peculiarities of which this Council has no knowledge. We say that the Government has its local officers and local reports on which it can act; while the information before the Council is of the most meagre description. My Hon. friend says that the extracts I read to the Council at the last meeting prove how ample and copious is the material at our disposal. But the Hon. Member knows better. He must be aware that the information before the Council on this point is of the most meagre character, and that, as regards the fitness of the majority of the present Municipalities to exercise the franchise, this Council has absolutely no information at all. This great bundle of papers consists mainly of criticisms on other points in the Bill, and not of reports as to the fitness of the various Municipalities to elect their own Commissioners or their own Chairman. Some opinions on that point there are; but they are, so to say, sporadic, scattered here and there, and wholly insufficient to enable this Council to come to an opinion on the point. As regards the great majority of Municipalities, I repeat the Council has absolutely no information whatever.

This, then, is the first ground we take; but we go further and say that, even in cases where the local opinions have been laid before us, the Select Committee have not been guided by them. Now, if local opinions and local

The Hon. Mr. Beverley.

reports are not to be our guide, I would ask in all humility, upon what is this Council to rely in framing these Schedules? The Hon. Member himself was forced to admit that the Council must be guided by these local reports; but when the reports do not happen to chime in with his own views, he gravely proceeds to discredit his own witnesses. When the present Municipal Commissioners, the nominees of Government, express a deliberate opinion that any place is unfit to exercise the franchise, the Hon. Member insinuates that they oppose the measure because they apprehend it will lead to their own extinction. Sir, I feel sure that my Hon. friend was not speaking seriously when he made this imputation.

I now pass on to the remarks of the Hon. Member in charge of the Bill, and if I understood him aright, he disputes the position that the opinions which I quoted were the opinions of the Municipal Commissioners. In that case I must ask Hon. Members to refer to those reports again. The Magistrate of Noakholly says that he explained the Bill very carefully to the Municipal Commissioners, and that they were of opinion that Noakholly should be entered in the Schedules. The Chairman of the Patna Municipality distinctly writes:—"To *the majority of the Commissioners* the introduction of the elective system does not commend itself." The Chairman of the Moorshedabad Municipality gives the opinion of five out of six Commissioners, and distinctly says that he himself expresses no opinion. As regards Dinagepore, I see that in March last the Commissioners were of opinion that the elective system might be introduced into that town. That opinion was overlooked by me. The opinion quoted was that expressed at a subsequent meeting in April. The later letter from Durbhungah, to which reference has been made, does not touch the question as to the fitness of that place for the enjoyment of the franchise. It is quite immaterial to my argument whether these places are or are not fit; I simply say that in these cases, amongst others, the Select Committee have not acted on the opinions before us.

Sir, it seems to me that our difficulties will only have begun if the Council accepts the task of framing these Schedules. On the last occasion I pointed out, not only that local opinions had been ignored by the Select Committee, but that, if there was any principle apparent in the Schedules, it was a principle qualified by numerous exceptions. My remarks mainly had reference to Schedule I. They are also applicable to Schedule II. It might be supposed that, when all the Commissioners are appointed by Government, they might safely be left to elect their own Chairman. Of the twenty-one places in Schedule I, however, in eleven only are the appointed Commissioners to be allowed to elect their own Chairman, while the other ten are entered in Schedule II. And on what principle? Apparently the backward, out-of-the-way towns are to be allowed to elect their Chairman; while at sudder stations and sub-divisions, where there is a Magistrate on the spot to watch and control the work of the Municipality, the Commissioners are not to be allowed to elect their Chairman. If this is the principle adopted, it is scarcely one that will commend itself to this Council. It is with no little confidence, then, that

I ask you, Sir, and this Council, to accept my amendments and leave to the Government a task which properly belongs to it, and which it is far better qualified to discharge. Why should the Council seek to tie the hands of Government in this matter? Why should the Government wish to tie its own hands? The work of this Council, Sir, I take it, is to assert the general principle, and to leave it to the Local Government to qualify that principle as it may see fit, giving to it the necessary powers for that purpose.

His Honor the President said :—I am glad to be able again to preside in this Council to take part in these discussions, and I am specially glad to do so in connection with the important measure which is now engaging our attention. The amendment which the Hon. Mr. Beverley has put forward is one which affects an important principle of this Bill, and though he has on his side the fact that the Bill as originally framed left to the Government the full discretion of saying which Municipalities ought to have the elective principle, and which Municipalities should enjoy the privilege of electing their own President, and though I see the Hon. Member is supported in his views by a great many officers with large local experience, I have no hesitation in saying for myself that I accept the position which the Select Committee have adopted in this matter. And I may be allowed to add that it was at my own instance that the basis on which the Schedules were framed has been somewhat enlarged, and a considerable addition has been made to the Municipalities which should be excluded both from the first and the second Schedules, of the Municipalities which have the right of election of Commissioners, and of the Municipalities in which the Commissioners would have the right to elect their own Chairman. Of course it may be said that the granting or withholding these full elective privileges is not exactly the point on the present occasion, and those who support the Hon. Member in this amendment may not without reason urge that, while they would like to see the extension of these privileges made as wide as possible, and while they do not grudge the concession, and are in favour of the principle, the point which they contest is that the right should not be definitely conferred by the Bill, but should rather be left to the discretion of the Government, which would be in the best position to say which Municipalities should have and which should not have full privileges. I understand the argument to be that the grant of full elective privileges once conferred would be almost irrevocable; and if that fact is so, it may have the liability of placing the Government in a serious difficulty, and bringing discredit upon municipal administration. I fully recognise that there is some force in this argument; but, notwithstanding that, the advantages on the side of a definite declaration by law of the position of Municipalities in respect to their elective privileges are in my opinion greater, and should prevail.

I will now proceed to give briefly my reasons for this conclusion. I have had the great advantage, which all the Members of this Council have not enjoyed, of personally interviewing the leading members of most of the principal Municipalities in the Province, and in the course of my tour during the last

The Hon. Mr. Beverley.

two seasons I took the special opportunity of convening meetings at every place to which I went, and, in conference with the principal members of the Municipality and the leading gentlemen of each station, of discussing the leading points and principles of the measure which we are now considering; and I have no hesitation in saying that in the large majority of these instances, though I admit there were some exceptions, the members of the Municipalities with whom I had conversation clearly wanted the concession of the points on which we are now dealing in this amendment. It was natural for me to ask those who put forward these requests, especially as to the right of election, "why, when you have the power in your present law of obtaining the right of election by petitioning for its introduction, did you not take advantage of that provision of the law to bring the system of election into force into your own stations." The reply was reasonable, and I think not unsatisfactory. They said:—"The law may allow it under certain conditions and restrictions, but they are of a character which it is almost impossible to fulfil, because we have to get the signatures of two-thirds of the rate-payers before we can even ask the Government for the concession. The getting of these signatures in a place like Patna or Dacca involves great delay of time and much trouble, and any new matter like this requires a great deal of explanation to the people; and after all, when we have gone through all this trouble to secure a certain number of signatures, we may not get the concession at all. But now that the Government is going to pass a Bill on a broader basis, we should like to have the privilege of election, and also the other privilege of allowing the Commissioners to elect their own Chairman." It comes then to be considered how this power should be given, and this brings me to the amendment which my Hon. friend Mr. Beverley has moved. I confess that for many reasons I prefer to give this power at once by definite enactment to all but the most backward of our Municipalities. It is admitted by the strongest opponents of the section of the Bill under consideration that the Government in this matter should be in advance of the country. Yet it seems to me to be just the contrary, for after what has been stated as the general wish of the people as proved, too, by the references made to the subject by the Press, the country would appear to be somewhat in advance of some of the leading Members of this Council. Now we want in many places the very relief which this Bill would give to our overworked Magistrates and Collectors in charge of Districts. In almost every district in the Province it has been found necessary to have new buildings and additions to the cutcherries and other public places on account of the increase of departments to give room for work. In some districts, where they have not been so lucky as to get an allotment from the Public Works Department, the court-houses are so crowded as to make it necessary to utilise even the verandahs for office purposes, and extreme inconvenience is caused to the transaction of business. That was another form in which it was brought strongly to notice that the burden of work is rapidly increasing, and that relief would be welcomed. The principle of these Schedules is certainly such as I should like

to see adopted, namely, that we directly should confer this privilege of election of Commissioners, and the privilege of election of their own Chairman by the Commissioners, in all Municipalities in sudder stations, and in all the principal sub-divisions. For, after all, having regard to the fears expressed respecting failure and disasters, what is it we are conceding to the rate-payers? the right of electing those who should represent them in municipal administration; and what to the elected Commissioners? the right of electing their own Chairman. It does not strike me that there is anything very revolutionary in that, or even that it introduces very large changes. In practice, I believe, although I may be wrong, the result will be that in most places, even if the right of electing their own Chairman was conceded, the Commissioners, in the first place, will be glad to get the assistance of the Magistrate or of some Government officer to preside at their discussions and deliberations, and thus there will be very little change in the present system. The argument put forward this morning by the Hon. Mr. Beverley is that you are wrong to do this, because a great many Municipalities and District Officers and Commissioners of Divisions have declared themselves against it. Well, I think I may fairly contend against this argument, that there is a provision in the Bill by which, if any of the Municipalities to whom we tender these privileges do not desire to accept them, they may absolve themselves of the burden. It will be quite competent under the 15th section of the Bill as it is proposed to be amended, for any Municipality which does not desire to adopt the system, to refrain from electing Commissioners, and then the Government would exercise the power of nomination. Similarly, if the Commissioners did not proceed to elect their own Chairman, the Government would nominate a Chairman. So that I say that those Municipalities which have been brought forward as hostile to the principle of the measure, if they are still of the same mind and wish not to have election in any form, can by a very simple process relieve themselves of it. Allusion has been made to a certain Municipality which has strongly represented by petition their disinclination to adopt this principle. I would refer to two Municipalities myself, which I am glad to see have still been excluded from the first and second Schedules. One is Monghyr and the other Dinagepore, where, during my stay, a memorial was read to me by the existing Commissioners saying "we are perfectly satisfied with the present state of things, and do not wish for any change regarding it." I took occasion at Dinagepore to say, after some conversation with gentlemen on the subject, that I had greater confidence in their diffidence than I had in a great many other places where they were anxious to obtain an immediate and absolute independence. Dinagepore and Monghyr are both sudder stations and the Capitals of their districts. They are fairly large towns and centres of comparative wealth and intelligence; and I have little doubt they both contain constituencies quite capable of exercising the privilege of electing their own municipal representatives. I think they should have the option of choosing for themselves in the matter. But whether they accept it

The President.

or not is not much to the point. We have safeguarded the measure from negligence and failure by providing an efficient system of outside control, and now the fullest responsibility of carrying out the new system rests in their hands. We have for nearly thirty years had municipal administration, in one form or other, in Bengal. We have been able during that time to see the growth of these institutions, and we may affirm of the gentlemen who are Municipal Commissioners, that in the manner of doing their business they have realised the responsibilities which attach to the position of Municipal Commissioners. Considering we are going to adopt the system in large places only, where there is a Magistrate or Sub-Divisional Officer on the spot, and have safeguarded the exercise of the powers under the Bill by a proper and efficient control, we need have no hesitation in all these places to confer the privilege, not by the uncertain and discretionary will of the Government, but by the positive provisions of law. We cannot expect sudden and great improvement, but in five years, as in the case of the Calcutta Municipality, we shall, I think, be able to congratulate ourselves that we did not do anything to prejudice the measure of independence in the constitution of the Municipalities to which this discussion refers. And as regards the success of the general scheme of Municipal Self-Government, our hope is that Municipalities which have accepted it will loyally come forward to give effect to the confidence which has been reposed in them. I am willing to give them that confidence, believing that, when they accept it, they will accept it under a right sense of their responsibilities and duties. I shall therefore oppose the amendment.

The Hon. Mr. Beverley's motion was then put to the vote and declared by the President to have been lost.

A division having been called for, the following votes were recorded:—

Ayes.—4.	*Noes.*—7.
The Hon. Mr. Alexander.	The Hon. Boykantonath Dé.
" Mr. Beverley.	" Harbans Sahai.
" Mr. Dampier.	" Mahomed Yusuf.
" the Advocate-General.	Col. the Hon. S. T. Trevor.
	The Hon. Mr. Macaulay.
	" Mr. Reynolds.
	" the President.

So the motion was negatived.

Section 8 was then agreed to.

Section 9 having been read—

The Hon. Mr. Reynolds moved that at the end of the section the words "or village from the operation of this Act" be omitted, and the words "village or land from the operation of this Act, or alter the number of the Commissioners of such Municipality" be substituted for them. He said that the introduction of the word "land" was rendered necessary by the language of section 12.

As to the rest of the amendment, he had already pointed out, when presenting the report of the Select Committee, the material difference between this section of the Bill and the existing Act. Under the present law, the Government was empowered, of its own motion, to alter the limits of a Municipality, or to withdraw a place altogether from the operation of the Act. The section as it stood allowed this to be done only on the recommendation of the Commissioners in meeting, and this change was in accordance with the resolution which had already been carried. Then, though the number of the Commissioners might be fixed by Government, yet, if the Municipality were subsequently sub-divided or considerably increased in area, it would be proper to allow of an alteration of the number of the Commissioners. The section, as it was proposed to be amended, would give the Government the power of making such an alteration, if the Commissioners in meeting recommended this to be done.

The HON. KUMAR BOYKANTONATH DE said, with reference to the amendment proposed, that he thought the addition of the words "or land" after the word "village" was a happy suggestion. It not unfrequently happened, while defining the limits of a Municipality, or revising the same, a portion of land, belonging to any village within such Municipality, was excluded from its boundaries. The amendment was therefore quite acceptable so far as the local limits were concerned.

As regards the latter portion of the amendment proposed, namely, "or alter the number of the Commissioners of such Municipality," he begged to point out that section 9 dealt with the local limits of a Municipality, and was not therefore the proper place where an amendment on a different subject could be introduced. The Hon. Member had also proposed to add similar amendments at the end of clauses 1 and 2 of section 13. His proposed amendment to section 9, with reference to the power of altering the number of Commissioners, would not only be superfluous, but also wrongly placed; he could not therefore accept the latter half of the amendment.

The HON. HARBANS SAHAI considered the proposed amendment right. He did not think the Hon. Member who had just spoken had seen the effect of the amendment in section 13. The amendment to section 13 anticipated that the amendment now before the Council had been made.

The amendment was then carried, and the section as amended was agreed to.

Sections 10, 11 and 12 were agreed to.

Section 13 having been read, the following amendment, moved by the HON. MR. REYNOLDS, was agreed to:—

To add the words "or by any subsequent notification under section 9" at the end of clauses 1 and 2 respectively.

The HON. MR. DAMPIER withdrew the amendments to section 13, of which he had given notice. He did so because his amendment on section 8 having been negatived, these amendments fell with it.

The section as amended was then agreed to.

The Hon. Mr. Reynolds.

Section 14 having been read, the HON. MR. REYNOLDS said it had been brought to his notice in connection with the wording of section 1, and the wording of the subsequent section 25, that the expression "take effect from" might be liable to be misunderstood. He therefore moved to omit the words "take effect from" in paragraph 2 of section 14, and to substitute for them the words "be deemed to have been made on."

The motion was carried, and the section as amended was agreed to.

Section 15 having been read, the HON. MR. BEVERLEY withdrew the amendments on this section, of which he had given notice.

On the motion of the HON. MR. REYNOLDS the word "such" before "election" in paragraph 1, line 11, was left out.

The HON. HARBANS SAHAI, on behalf of Baboo Chunder Madhub Ghose withdrew the amendments on this section, of which notice had been given by the last-named member.

The HON. MR. DAMPIER moved that the last proviso of this section be left out, and the following be substituted for it:—"No person who is not entitled to vote at the election of Commissioners shall be deemed qualified for election to be a Commissioner of such Municipality." He explained that the object of the amendment was merely to explain more correctly what he thought was the intention of the section. He understood that the amendment was accepted by the Hon. Member in charge of the Bill.

The motion was carried, and the section as amended was agreed to.

Section 16 having been read—

The HON. MR. REYNOLDS moved that this section be omitted, and the following substituted for it:—

"The first election of Commissioners under this Act shall take place at such time, not being more than six months after this Act comes into force, as the Local Government shall direct.

"If the persons entitled to elect Commissioners for any Municipality fail, within the time appointed for the first election under this Act, or for every subsequent election within the time prescribed by the rules mentioned in the last preceding section, to elect the whole number of Commissioners allotted for election to such Municipality, the Local Government shall appoint one or more Commissioners to complete the number so allotted as aforesaid."

He observed that, as had been pointed out, the section as it stood in the Bill was incomplete in not specifying when the first election should take place. He thought that that might have been provided for under rules to be framed under section 15, but on consideration he agreed with his Hon. friend Mr. Beverley, to whom he was indebted for bringing the matter to his notice, that some specific date ought to be prescribed to declare when the election should take place.

HIS HONOR THE PRESIDENT remarked that the only question was whether the period of six months was sufficient to allow the Commissioners to make up their minds to adopt election.

The HON. MR MACAULAY observed that it was not at all improbable that the preliminary discussions might be prolonged, and if the Local Government had not decided what the rules were to be, it would be hard upon the Municipality that it should be deprived of the privilege of election. He suggested that the word "may" be substituted for "shall" in the second clause.

After some conversation, this proposal was agreed to, and the HON. MR REYNOLD'S motion, as so amended, was put and carried.

The HON. MR. REYNOLDS withdrew the amendment, of which he had given notice, to insert the words "the rules mentioned in" after the word "by" in line 4 of this section.

The HON. MR. DAMPIER moved that the following clause be added to this section:—

"The persons entitled to elect Commissioners shall be deemed to have failed to elect, as required by the above clause, whenever the number of persons who have voted at any election is less than two hundred."

or some clause to that general effect.

He said that he had in his speech laid some stress upon the point that he feared that, under the name of entrusting Local Self-Government to the hands of the elect of the people, the Government would be running the danger of entrusting it to persons who could not within any reasonable stretch of the term be the elect of the people concerned. Three thousand inhabitants was the minimum number to constitute a Municipality under the Bill, and he had accordingly in this amendment provided that the election should not be accepted if it was a mere travestie of an expression of the governed masses who were not within what he might call the governing class. He asked the Council to consider this point from a practical point of view, with reference to the circumstances of the country, and the possibility of a so-called election being represented by the registration of the votes of no more than a score of voters even in a large Municipality.

The HON. MR. REYNOLDS said he did not think the Council should accept the amendment, because he did not see that it was at all necessary to provide for a minimum number of voters. Of course an election by 200 people in such a place as Patna or Dacca would not be an adequate expression of public opinion: but Municipalities differed greatly in population, and, if any amendment was adopted at all, it should be by way of percentage rather than of any absolute number.

The HON. MR. MACAULAY asked whether the Hon. Mr. Dampier had considered the question with reference to the previous sections. He had told the Council that the minimum number of inhabitants to constitute a Municipality was 3,000. On an average of five persons to each house, that would give 600 houses. The franchise was the payment of Re. 1-8 per annum in taxes, and

this would exclude many householders. How many, it would be difficult to say: but he might mention, as bearing generally on the question of the average rate, that the Commissioner's report showed that out of 28,963 rate-payers in the Municipality of Patna, no less than 26,766 paid less than 4 rupees a year. MR. MACAULAY thought that, if any amendment in the direction proposed was adopted, it should be in the form of a proportion of those qualified to vote. He would point out, moreover, that the section was designed to provide not for the annulment of an election, but for the supplementing of it. It referred to cases where the rate-payers should not elect "the whole number of Commissioners allotted," and provided for Government appointing Commissioners "to complete the number." Such an amendment, therefore, should in any case be thrown into a separate section. But he could not see any practical advantage in any amendment of the kind.

The HON. HARBANS SAHAI was opposed to any limitation of the kind proposed at present.

HIS HONOR THE PRESIDENT said, if there was a difficulty in adopting the amendment, it might perhaps be met by the rules to be passed to regulate the elections, but he did not know whether it would be consistent with the Act to provide by rule that a certain proportion of the population must vote. If the matter was left to be determined by rule, the Government would then be in a better position to consider the question.

After some further conversation the motion was put and negatived.

Section 16 as amended was then agreed to.

Section 17 having been read—

The HON. MR. BEVERLEY withdrew the amendment on the section, of which he had given notice.

The HON. MAHOMED YUSUF also withdrew the amendment, of which he had given notice.

The HON. BOYKANTONATH DE moved to add the words "or to transfer the same to the second Schedule" at the end of the second paragraph.

The HON. MR. REYNOLDS said he understood the proposal to be that, when power was given to the rate-payers to elect their own Commissioners the Government might at the same time transfer the Municipality to Schedule II, thus reserving the right to appoint the Chairman. He had no objection to the adoption of the amendment.

The HON. MR. MACAULAY remarked that the two things were distinct—one was the election of the Commissioners, the other the election of their own Chairman by the Commissioners. He would suppose the case of a Municipality working under an elected Chairman for a series of years. The rate-payers were at length allowed to elect two-thirds of their Commissioners. Yet the arrangement regarding the Chairman was to be simultaneously upset. Why

should a nominated Chairman suddenly become a necessity? He could not understand why, after the Government had decided to allow the election of Commissioners, it should withdraw the right to elect the Chairman.

The HON. BOYKANTONATH DE, by leave, withdrew the amendment.

Section 17 was then agreed to.

The HON. MR. BEVERLEY withdrew the motion, of which he had given notice, for the introduction of a new section after section 17.

Section 18 having been read, the HON. MR. REYNOLDS moved that it be left out. He said the section was rendered unnecessary by an amendment which would come later on, and of which he had given notice.

The motion was agreed to, and the section was accordingly left out.

Section 19 was agreed to.

Section 20 having been read, the HON. MAHOMED YUSUF moved that the section be left out. He said that the section empowered the Government to remove any Commissioner for misconduct in the discharge of his duties, or disgraceful conduct. He thought that the words used were of such a general and vague character as to render it unadvisable to retain them. In moving the omission of the section, he did not intend to imply any want of confidence in the Local Government, but there might be cases in which the words of the section might be strained and injustice worked under them.

The HON. MR. DAMPIER said that the only remark he should make on the motion before the Council was, that it was tantamount to the substitution for this section of another section, providing that of whatever misconduct in the discharge of his duties a Commissioner may be guilty, however disgraceful the conduct which may have been brought home to him, there should be no power which would be able to remove him from the body of the Commissioners.

The HON. MR. REYNOLDS said he could not accept the amendment. The section was merely a reproduction of the existing law, although perhaps the wording was open to criticism. The wording of the section was much discussed in 1876, when he was a Member of the Council, but the present form was ultimately adopted, and he was not aware that any practical reasons had ever been brought forward for omitting or altering it.

The HON. BOYKANTONATH DE said :—He was of opinion that it would be repugnant to the very principle of the Bill to arm the Local Government with the power of removing a Commissioner on a charge of misconduct, or disgraceful conduct. These words would admit of different degrees of interpretation. A Commissioner might be too independent or too assertive, or may sometimes lose his temper, and was he to be removed on a charge of misconduct, or disgraceful conduct? A Commissioner should be removed only when he was guilty of moral depravity, and when such a charge against him was proved in a Court of Justice. Sections 21 and 56 of the Bill provided for

the disqualification of Commissioners under certain circumstances, and contained, he submitted, the necessary provisions on the subject.

The HON. MR. REYNOLDS reminded the Council that it was only on the recommendation of the Commissioners in meeting, that the Bill proposed to give the Government this discretionary power.

The motion was by leave withdrawn.

The HON. KUMAR BOYKANTONATH DE, and the HON. HARBANS SAHAI (on behalf of the Hon. Chunder Madhub Ghose), respectively, withdrew the amendments on section 20, of which they had given notice.

The HON. MR. DAMPIER moved that the words "if it thinks fit, on the recommendation of the Commissioners" in lines 2 and 3 of section 20 be left out. The object of his amendment was to leave to the Government of Bengal the right of removing any Commissioner "guilty of misconduct in the discharge of his duties or of disgraceful conduct." He would give an instance to show why he thought the power of moving in the matter should not be left to the Commissioners. It might happen that a pure party question arose, and that in connection with it a Commissioner might commit himself in a way which was obviously improper, and to such an extent that his being allowed to remain in office would be a scandal in the eyes of all impartial lookers on. Being a party question, his continuing in office would depend on the numerical strength of the respective parties, and a man who had so offended might remain a Commissioner with the certain result of constant future friction and obstruction to public business.

The HON. MR. MACAULAY said the Council should trust that those to whom they delegated the functions of Commissioners would be ready to get rid of any member of their body who was guilty of misconduct in the discharge of his duties, or of disgraceful conduct. If they did not, and the consequence was any want in the proper administration of municipal affairs, the Government had the power to intervene. The section as reproduced here was the wording of the present Act, and during the last four years, during which he had been in charge of the Municipal Department of the Government, there had never been any instance, as far as he could recollect, in which the Local Government had occasion to exercise the power which the Hon. Mover of the amendment proposed to confer.

The HON. MAHOMED YUSUF observed that, in the absence of any definition of misconduct or disgraceful conduct, he did not think it was desirable that the amendment before the Council should be carried.

The motion was then put and negatived.

The HON. MR. REYNOLDS moved that the words "at a meeting" be inserted after the word "Commissioners" in line 3 of section 20.

The motion was agreed to.

The HON. KUMAR BOYKANTONATH DE moved that the words "shall have been declared an insolvent by a competent court or" be inserted after the word "Commissioner" in line 5 of section 20.

The HON. MR. REYNOLDS said he was not in favour of this amendment. A Commissioner was elected for only three years, and it was hardly necessary to class insolvency with disgraceful conduct. It might be assumed that, if a Commissioner became insolvent, he would not be re-elected.

The motion was then put and negatived.

Section 20 as amended was then agreed to.

The Council was adjourned to Saturday, the 16th instant.

Saturday, the 16th February 1884.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President.*
The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel The HON. S. T. TREVOR, R.E.
The HON. H. BEVERLEY.
The HON. HARBANS SAHAI.
The HON. MAHOMED YUSUF.
The HON. W. L. ALEXANDER.
The HON. KUMAR BOYKANTONATH DE.

HOWRAH AND SUBURBAN POLICE.

The HON. MR. REYNOLDS moved that the Bill to regulate the Police in the Municipalities of Howrah and the Suburbs of Calcutta be read in Council. He said:—The object of the Bill, as I explained last Saturday, is merely to authorize the payment, in the Municipalities of Howrah and the Suburbs of Calcutta, of a portion of the cost of the Municipal Police from Municipal Funds. Under the general Municipal Bill which is now before the Council, no part of the Municipal Funds can be spent upon the Municipal Police. The Bill is a short one, and is based entirely upon Part V of the Municipal Act. It will be observed that, although Government is unable entirely to relieve these Municipalities of Police charges, the Bill as drawn considerably reduces the charges which are at present made. Section 10 of the Bill provides that such expenditure shall not only not exceed 5 per cent. of the valuation of holdings, but shall not exceed one-fourth of the whole police estimate.

The Hon. Mr. Reynolds.

The motion was agreed to, and the Bill referred to a Select Committee, consisting of the Hon. Mr. Macaulay, the Hon. Mr. Beverley, the Hon. Kumar Boykantonath De, and the Mover, with instructions to report in two weeks.

BENGAL MUNICIPALITIES.

The HON. MR. REYNOLDS moved that the Bill to amend and consolidate the law relating to Municipalities be further considered in order to the settlement of its clauses.

The motion was put and agreed to.

Section 21 having been read—

The HON. KUMAR BOYKANTONATH DE moved to insert the words "Chairman, Vice-Chairman, or" before "Commissioner" in line 1. He said, this section, as it stood, was only applicable to a Commissioner. There was no provision made when a Chairman or Vice-Chairman neglected to attend meetings, or was convicted of a non-bailable offence.

The HON. MR. REYNOLDS observed that there seemed to be some misapprehension on the part of the Hon. Mover of the amendment. The Hon. Member had omitted to notice that both the Chairman and Vice-Chairman were "Commissioners."

The HON. MR. MACAULAY remarked that the Chairman when appointed by the Government was not necessarily a "Commissioner." He proposed to move an amendment in section 24 which, if adopted, would make the amendment now before the Council unnecessary.

The HON. MR. REYNOLDS pointed out that by section 25 an appointed Chairman became a Commissioner.

The HON. MR. MACAULAY said that the section only declared that he should have "the rights and privileges of a Commissioner" during his term of office.

The amendment was then by leave withdrawn, as well as the corresponding amendment of the HON. KUMAR BOYKANTONATH DE in the same section, of which notice had been given.

The HON. KUMAR BOYKANTONATH DE moved that the words "or shall have been declared an insolvent by a competent Court" be inserted after the words "non-bailable offence." He said that this section, as also section 56, enumerated instances of misconduct or disgraceful conduct, for which a Commissioner should be considered disqualified to continue in office. But bankruptcy might be another instance of misconduct.

The HON. MR REYNOLDS said he did not object to the amendment.

The HON. MR DAMPIER remarked that as the amendment was worded, it would disqualify a man who was once declared an insolvent from ever becoming a Municipal Commissioner.

The HON. HARBANS SAHAI was opposed to the amendment on the ground that in the Mofussil the fact of a man becoming an insolvent would not be generally looked upon as a disqualification for the office of Municipal Commissioner, as insolvency did not necessarily carry discredit with it. An honest man, carrying on large mercantile transactions, might become bankrupt owing to circumstances over which he could have no control. No money was entrusted to a Municipal Commissioner.

The HON. THE ADVOCATE-GENERAL observed that, in his opinion, a man who had become insolvent should not be left to deal with Municipal Funds.

The amendment was put to the vote and carried.

The section as amended was then put and agreed to.

Section 21 having been read—

The HON. HARBANS SAHAI moved that the words "shall cease to be a Commissioner" in the last line be left out and the following substituted: "may be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners shall have given their votes at a meeting specially convened for the purpose." He thought that the hard-and-fast rule in the corresponding section (22) of the present law had worked prejudicially to the interests of Municipalities. There were many Commissioners who took great interest in municipal matters, and there were cases in which some of them for good and sufficient reasons might not be able to attend six consecutive meetings, and then under the stringent rule of the section they would have to go out. He wished to vest some discretion in this matter in the Commissioners themselves, so as to enable them to decide each case on its own merits. If the Commissioners found that the defaulting Commissioner had been absenting himself intentionally or negligently or carelessly, they would remove him, but if they were satisfied that there was good and sufficient reason for his absence, they would only be too glad to retain the services of a man they could little afford to lose. As an instance, BABU HARBANS SAHAI might be pardoned for mentioning his own case. He was a Municipal Commissioner in Arrah, and having fallen seriously ill, was obliged to absent himself from the meetings for a time. The point arose whether he could continue to serve as a Commissioner, but the Commissioners found that they had no discretion left to them, although they desired to have him. So by experience it had been found that the hard-and-fast rule of the existing law did not work well. He thought, therefore, a discretion should be left to the Commissioners in the matter.

Then with regard to the provision that a Commissioner convicted of a non-bailable offence should cease to be a Commissioner. He thought the mere fact of a man being convicted of a non-bailable offence did not necessarily involve moral depravity. Suppose a Commissioner found a poor helpless boy set upon by ruffians on a highway; he might hit the man a blow, and possibly kill him. The Commissioner might be tried and convicted of a non-bailable offence. Could it be contended that such a man was not fit

The Hon. Harbuns Sahai.

to continue as a Municipal Commissioner? The Council would remember that Municipal Commissioners gave their services gratuitously, and they might be glad if they were relieved of the office. It was the interest of the Municipality to retain the services of these men, and all that BABU HARBANS SAHAI proposed was that a discretion should be vested in the Commissioners in both cases to determine whether the services of a Commissioner should be retained or dispensed with.

The HON. KUMAR BOYKANTONATH DE said the expression "shall cease to be a Commissioner" was a decent and polite one. To remove a Commissioner by such a formal procedure, and in such a public manner as was proposed by the amendment, would be against the rules of decency and civility. He regretted he could not therefore accept the amendment.

The HON. MR. REYNOLDS said the proposed amendment would reduce the section to a dead letter. The Council would observe that the omission to attend six consecutive meetings did not involve loss of office in the event of the Commissioner so absenting himself having obtained the permission of the Commissioners, and that was the plain, straight-forward way for a Commissioner who absented himself to act. Then with regard to the effect of the amendment as regards the commission of non-bailable offences, he thought no discretion should be left in the matter. There was nothing to prevent a person who ceased to be a Commissioner under the operation of this section, on account of non-attendance, from being re-elected.

The HON. HARBANS SAHAI'S motion was then put to the vote and negatived.

Section 21, as amended was then agreed to.

On the motion of the HON. MR. REYNOLDS, the words "the first day of the year next following," in lines 3 and 4 of section 22, were left out. He said he had a further amendment in section 26, which he thought would provide in a more satisfactory way for the term of office of a Vice-Chairman.

The motion was carried, and the section as amended was agreed to.

The HON. MR. REYNOLDS, with the permission of the Council, moved that in section 23, after the word "meetings" in line 5, the words "or in consequence of his insolvency" be inserted. The amendment was rendered necessary in consequence of the amendment made in section 21.

The motion was carried, and the section as amended was agreed to.

Section 24 having been read—

The HON. MR. DAMPIER moved that the following new section be substituted for it:—

"On the first occasion on which it may be necessary to appoint a Chairman for any Municipality under the provisions of this Act, the Local Government may, by an order to be published in the *Calcutta Gazette*, direct that the Chairman of such Municipality shall be elected by the Municipal body, or that such Chairman shall be appointed by the Local Government, and such direction shall be deemed to apply to all subsequent vacancies

occurring in the office of Chairman of such Municipality;" and that the following words be added to the section above proposed:—"Unless the Local Government shall at any time otherwise direct by an order published in the *Calcutta Gazette.*"

He observed that the principle of this amendment, as of the first which he had had the honour to move, was to leave to the Executive Government the discretion, and to impose on it the responsibility, of extending or withholding certain privileges in the cases of the Municipalities severally. The Hon. Mover of the Bill had said that the Council had no hesitation in rejecting the principle, and elsewhere the result of the debate on the first amendment, as to the right of electing Commissioners, had been spoken of as if he (MR. DAMPIER) had been in a minority of one, but if the Hon. Mover would analyse the division on that amendment, he would see that if only one member more had voted for the amendment, the fate of the day would have been changed and the Schedules would have disappeared from the Bill. Further, the Council would observe that there was a marked distinction between the amendment he now proposed and that which was rejected before. If the Council were now to resolve on leaving the Executive Government the exercise of a discretion in the matter of allowing the Commissioners of individual Municipalities to elect their own Chairmen, there would be nothing inconsistent in that resolution with the resolution which would not leave to the Executive Government any discretion in the matter of restricting the right of the ratepayers to elect their own representatives as Commissioners. In conclusion, he said that, although he had felt bound to take as his motto in these discussions the Italian proverb *che va piano va sano; che va sano, va lontano; che va forte va a la morte*—he desired, as this was probably the last of his contentious opposition to the Bill on such grounds, to express his hearty wish for the success of the measure in whatever form it might be passed. He hoped it might realise the most sanguine expectations in promoting the real good and welfare of those whom it would affect. His opposition to it had been founded on reasons which might be concentrated into the words used by a Lord Chancellor of the present century. It was, he thought, Lord Lyndhurst, who, in speaking of the great essayist and historian, said:—"I wish I could feel as sure of anything as Macaulay does of every thing."

The motion was put and declared to be lost.

The HON. MR. DAMPIER having called for a division, the following votes were recorded:—

AYES 4.	NOES 7.
The Hon. Mr. Alexander.	The Hon. Boykantonath De.
" Mr. Beverley.	" Mahomed Yusuf.
" Mr. Dampier.	" Harbans Sahai.
" The Advocate-General.	Col. the Hon. S. T. Trevor.
	The Hon. Mr. Macaulay.
	" Mr. Reynolds.
	" The President.

So the motion was negatived.

The Hon. Mr. Dampier.

The HON. MAHOMED YUSUF withdrew the amendment of which he had given notice to add the following proviso to section 24:—"Provided that whenever such removal is made, the reasons for it should be published in the local gazette."

The HON. MR. MACAULAY, with the permission of the Council, moved that in section 24, after clause 2, the following words be inserted:—"The Local Government may at any time remove a Chairman appointed by it." This was a corresponding provision to that in section 25, of which he had given notice, by which the power of the Commissioners to remove a Chairman was limited to the case when such Chairman was elected by themselves. It seemed but right that if the Commissioners chose to ask the Government to give them a Chairman, it should be in the hands of the Government to remove him.

The motion was carried, and the section as amended was agreed to.

Section 25 having been read, the HON. MR. MACAULAY moved that the words "any Chairman elected under the last preceding section" be inserted after the word "and" in paragraph 2, so as to make it clear that only a Chairman elected by the Commissioners, and not a Chairman appointed by the Government, could be removed by the Commissioners.

The HON. MR. BEVERLEY remarked that any resolution under this section would require the approval of the Government under section 58, and it seemed to him to be fair that the Commissioners should have an opportunity of expressing their opinion on the point.

The HON. KUMAR BOYKANTNATH DE said:—He respectfully begged to oppose the motion. Because he did not see the reason why an *appointed* Chairman should not be removed by a resolution of the Commissioners if an elected Chairman might be subjected to such a removal. He did not see the justice and propriety of excluding an appointed Chairman from such removal. In his humble opinion, a Chairman, whether he was appointed or elected, should equally be liable to removal by the Commissioners. It might be urged that a Chairman who was appointed by the Local Government ought not to be removed by the Commissioners, but might be removed by the Government alone. If this distinction was observed, then an appointed Chairman, being armed with the privilege given to him by this section, would naturally consider himself above the control of the Commissioners. The consequence of such a distinction might lead such a Chairman to act with high-handedness.

The HON. MR. MACAULAY observed that the principle on which he proposed this amendment was that the same authority which appointed should remove, and that was the principle he asked the Council to accept. His Hon. friend Mr. Beverley was quite right in pointing out that should the Commissioners pass a resolution under the section for the removal of the Chairman, it could not take effect without the sanction of the Local Government. But he said it was right that the Commissioners should have an opportunity of expressing their

opinion. MR. MACAULAY saw no reason why the Commissioners should not at any time submit a representation to Government without moving a formal resolution at a meeting.

The HON. MR. MACAULAY'S motion was then put to the vote and carried.

The HON. HARBANS SAHAI moved that the following clause be added to section 25 :—

"If such Chairman shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or if he has been convicted of a non-bailable offence, or if found inefficient or negligent of his duties."

The object was to provide that in certain cases the Chairman should be liable to removal. Was it proper, under such circumstances, to vest the Commissioners with arbitrary power to remove a person occupying the important position of Chairman without any reason. It was true that their resolution would be subject to the sanction of Government; but Babu Harbans Sahai thought the Chairman ought to know that there was a certain charge brought against him, and have the opportunity of defending himself before the Commissioners; but as the section stood, the Chairman might not know the cause of his removal. According to rule a menial servant of Government had the privilege, when charged with anything, of knowing the nature of the charge brought against him, and was given an opportunity of explaining his alleged misconduct; but as this section stood, the Chairman would have no such opportunity given to him. There ought to be a certain specified charge, and the Chairman should be allowed to explain and defend himself, and ask the Commissioners to decide the matter fairly and honestly. The Commissioners should not be allowed to remove their Chairman at their pleasure without good grounds.

The HON. MAHOMED YUSUF said that the amendment, taken along with the explanation of the Hon. Mover of it, appeared to have two objects in view: *firstly*, to specify the grounds of the removal of the Chairman; and *secondly*, to give an opportunity to the Chairman to explain himself, that is to say, to show cause against his removal; the latter object, though stated in the explanation just made to the Council by the Hon. Mover of the amendment, did not form part of the amendment, nor was it the necessary result of it. The intention of the Hon. Mover of the amendment that the Chairman should have an opportunity afforded to him to clear himself of the charges brought against him was as likely to be defeated with the mere specification of the grounds of his removal in the Act, as without such specification. The amendment therefore failed to carry out that intention, assuming that it was necessary to provide for it. The Chairman was equally liable to be taken by surprise with that amendment as without that amendment. That was one objection to the amendment, that it failed to carry out one of its objects. But apart from that, was it necessary to specify the grounds of removal by using such vague and general words as were proposed—words which were not defined and which were capable of meaning anything? It would in no way improve the Act, or intro-

duce any element of certainty in it, if such words as "misconduct" or "disgraceful conduct" were to be introduced in this section: whilst on the contrary the use of such words was likely to give rise to a great deal of verbal dispute, whether any particular case fell within those words or not. It would be much better to leave it to the discretion of the Commissioners to deal with each individual case as they thought proper, and not to dictate to them the grounds of their action. The matter of removal being subject to the sanction of some other authority, the Commissioners would necessarily have to make out a case for dismissal before they could expect such dismissal to be confirmed. Due weight would be given to the recommendations of the Commissioners, and by the effect of the words that already existed in the proviso in question, it was quite clear that the removal of the Chairman was not an easy matter. Two-thirds of the Commissioners must agree before the Chairman could be removed, and in practice much stronger grounds than those contained in the amendment would have to be made out before any action could be taken under the section. The amendment seemed therefore wholly unnecessary. Of course, if the Chairman had not been heard in his defence, and if such a case could be contemplated as that of a removal without a hearing to the contrary, that of itself, if brought to notice, might result in a refusal to confirm until he has had such a notice and an opportunity to be heard.

The HON. MR. DAMPIER could not say that the amendment which the Hon. Member proposed was consistent with the persistent lectures which he and other Hon. Members had been reading throughout these debates, that any attempt to interfere with the discretion of municipal bodies exhibited a want of proper confidence in them. The moment the position of the Chairman of the Commissioners was touched, the Hon. Member from Shahabad, himself a representative of the future governing bodies, put aside the whole principle of confidence which he had been impressing upon Mr. Dampier. What was a proper discretion before, now became an arbitrary power, which the Commissioners might take it into their heads to exercise so capriciously, and in a manner so opposed to ordinary justice, as to condemn a man and remove him from his post. The Hon. Member could not even trust them not to commit the unreasonable injustice of not listening to what the Chairman had to say. MR. DAMPIER would, however, remind the Hon. Member that in this particular case the Bill did provide precisely the safeguard which he had desired to impose in other cases, the judgment of the Lieutenant-Governor. He supposed that if the Commissioners were to attempt to do anything so wrong, the Executive Government, without whose sanction such removal could not be carried out, would, in the exercise of one of those whims of which the Hon. Member had told the Council in the course of these debates that he was so much afraid, put an immediate extinguisher on the proceedings of the Commissioners. MR. DAMPIER had already expressed his apprehension lest the importance which was being attached to considerations affecting what he had called the future

governing classes, in the consideration of this measure, should throw into shadow those more directly affecting the governed masses.

The Hon. Mr. Beverley pointed out that what was aimed at in this amendment was almost entirely provided for by sections 20 and 21. An elected Chairman must be a Commissioner, and under those sections he could be removed under the circumstances therein stated. The amendment as worded did not really provide that the Chairman should be advised of any charge of inefficiency or negligence on which he was to be tried. He therefore opposed the amendment.

The Hon. Mr. Reynolds thought it undesirable to adopt the amendment. He thought the section as it stood in the Bill would give the Chairman full opportunity of meeting the charge.

His Honor the President thought where a meeting was specially convened for the purpose there could be no room for secret and underhand proceedings.

The motion was then put and negatived.

The Hon. Mahomed Yusuf moved that in paragraph 2 of section 25, the words "present at a meeting specially convened for the purpose, and of which one week's previous notice has been duly published" be inserted after the words "two-thirds of the Commissioners." The object of the amendment was to provide that under this section a Chairman might be removed by a resolution in favour of which two-thirds of the Commissioners present at the meeting had voted, without requiring that the resolution must have the assent of two-thirds of the whole number of the Commissioners. As the section now stands, it was simply unworkable, and would prove of as much worth as the section in the present Municipal Act, which empowered two-thirds of the rate-payers to apply for the elective system. It seldom occurred that two-thirds of the Commissioners were present at a meeting, and when the two-thirds were present, there must be a unanimous vote for the re-appointment and removal of an officer. And as unanimous votes were seldom obtained on important questions, no action could be taken under the section. A very good officer might not be re-elected if a single negative vote was given by any one of the two-thirds present. The section had been designed for actual work, and not mere show: something for the ear and nothing in reality: it was fit and proper that it should be so worded as to be workable. In all public associations, from the House of Commons to the most insignificant vestry, the rule was invariably to take note of only those members who were present and not of those who were absent; and he saw no reason why they should make a departure from so sound, practical, and universal a rule. Those who were absent forfeited for the time their right to vote, except in money matters, when the right of proxy was admitted. As the Bill made no provision for proxy, and as even in the most important financial business it gave entire control to those Commissioners who were present, leaving

The Hon. Mr. Dampier.

the absent ones entirely out of reckoning, it was meet and proper that this section should be framed in the same way, and not devised in a way so as to make it unworkable.

The HON. MR. REYNOLDS said the second clause of the section which he intended to propose in substitution of section 25 would provide a safeguard which he preferred to the amendment now before the Council. By this amendment it would be necessary, not only that two-thirds of the Commissioners should attend the meeting, but that two-thirds of the whole number should vote in favour of the resolution. One did not wish to multiply occasions for voting for the removal of the Chairman, and he thought the object would be better served by the wording of the amended section in the notice paper. He did not think previous notice to the Chairman of the ground of his proposed removal was necessary. It was sufficient that the meeting should be specially convened for the purpose. He could not therefore support the amendment.

The HON. MAHOMED YUSUF thought that in practice this section would not work, because it would be very difficult to obtain the votes of two-thirds of the whole number of the Commissioners. It would simply remain a dead-letter in the Act.

The amendment was then put to the vote and negatived.

The amendment in section 25, which stood in the name of the HON. CHUNDER MADHUB GHOSE, was withdrawn.

The HON. MR. REYNOLDS then moved that the following section, in which the amendment adopted by the Council on the motion of the Hon. Mr. Macaulay was adopted, be substituted for section 25 as it stood in the Bill:—

"Notwithstanding anything in section 13 contained, every Chairman appointed under the last preceding section, if not already a Commissioner of the Municipality of which he shall have been appointed Chairman, shall, from the date of his appointment, during the term of his office, enjoy all the rights and privileges of a Commissioner of the Municipality to which such appointment relates, but shall not be reckoned in calculating the proportions of one-third and one-fourth under the provisions of section 14. Every Chairman, whether appointed or elected, shall hold office for three years from the date of his appointment or election, and shall be eligible for re-appointment or re-election.

"A Chairman elected under the last preceding section may at any time be removed from his office by a resolution of the Commissioners, in favour of which not less than two-thirds of the whole number of the Commissioners have given their votes at a meeting specially convened for the purpose."

The motion was put and carried, and section 25 as thus amended was then agreed to.

Section 26 having been read, the HON. MR. REYNOLDS moved that the following section be substituted for it:—

"The Commissioners at a meeting shall elect one of their own number to be Vice-Chairman. He shall hold office for three years from the date of his election, and shall be eligible for re-election on the expiration of his term of office:

"Provided that a Vice-Chairman who has been re-elected on the expiration of his term of office shall not be again eligible for re-election on the next occurrence of a vacancy.

"The Vice-Chairman may at any time be removed from his office by a resolution of the Commissioners, in favour of which not less than two-thirds of the whole number of the Commissioners shall have given their votes at a meeting specially convened for the purpose."

It had been represented to the Select Committee that it was undesirable that the same officer should be elected for any lengthened period, therefore it was proposed that a Vice-Chairman should not hold office continuously for more than two terms, or a maximum of six years. After that he would not be eligible for election to the next vacancy; there must be an interval of at least one period of three years before he could be elected again.

The HON. MR. BEVERLEY did not think a sufficient case had been made out for the insertion of the proviso. Anything that could be said in the case of a Vice-Chairman would also apply to the case of a Chairman. The proviso imposed a disability on the Commissioners, which was not needed and was not desirable. The Vice-Chairman was often in the position of a Secretary; he might be very able and efficient, but under this proviso the Commissioners could not retain him as Vice-Chairman for more than six years. Under any circumstances, he must be re-elected every three years, and MR. BEVERLEY thought it should be left to the Commissioners to re-elect him or not, as they thought fit. He therefore moved the omission of the second paragraph of the section containing the proviso.

The HON. MR. BEVERLEY'S amendment was put to the vote and declared by the President to be negatived.

The HON. MR. BEVERLEY having asked for a division of the Council, the following votes were recorded:—

AYES 7.	NOES 4.
The Hon. Kumar Boykantonath De.	The Hon. Mr. Reynolds.
" Mr. Alexander.	" Mr. Dampier.
" Harbans Sahai.	" the Advocate-General.
" Mahomed Yusuf.	" the President.
" Mr. Beverley.	
Col. the Hon. S. T. Trevor.	
The Hon. Mr. Macaulay.	

So the amendment was carried.

The HON. HARBANS SAHAI withdrew the amendment on section 26 of which notice had been given.

HIS HONOR THE PRESIDENT said the Council will see that the following notice of motion stands in the name of the Hon. Mr. Macaulay:—

Section 26.—To add the following after the proviso—

"Provided also that any salaried Vice-Chairman appointed by the Local Government before the passing of this Act under any enactment repealed by Bengal Act V of 1876,

The Hon. Mr. Reynolds.

who may lose his appointment under the operation of this section, shall be entitled to receive from the Municipal Fund such compensation by way of pension or gratuity as the Local Government may determine, not exceeding the amount to which he would be entitled for his service under the Municipality, according to the scale laid down in the rules in force for the time being for the regulation of the pensions and gratuities of uncovenanted officers of Government."

With reference to the above His Honor the President said:—I wish to say on behalf of the Government, rather than as President of this Council, that I have suggested the withdrawal of the amendment which stands in Mr. Macaulay's name. It is well known that this amendment applies to a particular officer, whose interests, as Vice-Chairman of the Suburban Municipality, had been saved under previous enactments connected with Municipal administration. He has pressed before us, before this Bill was brought forward, that he had been a servant of that Municipality for a long time; that he had given up several appointments; and that if no provision was made for him he might, probably, be put to a great deal of hardship. The answer which the Government gave to that memorial, and which was based upon other grounds with which His Honor would not trouble the Council, was the following:—

"The Lieutenant-Governor is unable, from considerations of policy unconnected with this particular case, to re-enact the clause which saved Mr. Sterndale's appointment when the Municipal law was amended in 1876. It is not, however, intended that he should be liable to lose his appointment without compensation. Under the existing law, the appointment is only terminable with the sanction of the Lieutenant-Governor; and it may be admitted that the Government would not have sanctioned Mr. Sterndale's dismissal for no fault, without insisting upon the award of compensation. It is now proposed to transfer to the Municipal Commissioners themselves the power which hitherto has rested with Government. The Lieutenant-Governor considers that the transfer of this power should be accompanied by the transfer also of the corresponding responsibility. While, therefore, it is not possible by legislation to secure Mr. Sterndale in his appointment, or to accept any liability on behalf of Government, the Lieutenant-Governor will be prepared to recommend to the consideration of the Legislative Council that a proviso be added to the section relating to the election of Vice-Chairmen, that any salaried officer appointed by Government, who may lose his appointment under the operation of this section, shall be entitled to receive compensation from the Municipal Fund on the basis of the pension rules in force under Government."

It was in the face of that letter having been addressed that we thought we were bound to place before the Council a proviso by which an officer who had so long served the Municipality should not be put out of his appointment without some compensation. But it has recently been forced upon us that, while we are now going to give liberty to Municipalities to choose their own Vice-Chairmen, and other general powers, subject only to an external control, it would be unreasonable to impose any such conditions regarding compensation on a particular Municipality. If Mr. Sterndale may possibly, though I hope not, lose his appointment under the new Bill, all that I at present can say on the part of the Government is, that without pledging ourselves to a definite promise, we will do our best to try and find him some other office. It is in

this view that I have suggested the desirability of not pressing this amendment upon the Council.

The HON. MR. MACAULAY then withdrew the proposed amendment which, he said, had been proposed only in his official capacity.

The HON. MAHOMED YUSUF withdrew his notice of motion to add in section 26, paragraph 3, after the words "two-thirds of the Commissioners," the words "present at a meeting specially convened for the purpose, and of which one week's previous notice has been duly published."

Section 26 as amended was then agreed to.

The HON. MR. REYNOLDS moved that the following section be inserted after section 26:—

Section 26A.—"The term of three years mentioned in sections 22, 25 and 26 shall be held to include any period which may elapse between the expiration of the said three years and the date of the next subsequent appointment or election not being an appointment or election under the next succeeding section."

The motion was agreed to.

HIS HONOR THE PRESIDENT said:—I wish, with the permission of the Council, and if it does not create any confusion or inconvenience, that we may proceed to the consideration of Part IV of the Bill regarding Municipal taxation, and I may briefly explain my reasons for suggesting this course. The Hon. Member, Mr. Alexander, has an important amendment to move regarding section 84, and I regret to say circumstances oblige him to leave Calcutta to-night, or to-morrow, and we shall not have the advantage of his services in connection with this Council after to-day. I do not think, in the ordinary course, that that section will come on for discussion to-day, and I should be sorry to lose the opportunity of hearing what that Hon. Member has to say regarding the important amendment of which he has given notice. I wish therefore to take up section 84, before proceeding with the rest of the amendments on the notice paper.

The HON. MR. ALEXANDER said:—The amendment I have the honour to bring forward is somewhat different from that which stands on the paper, and I have been induced to modify it, because I found that, in some instances, the first clause would be inconvenient, if not impracticable. I wish, therefore, now, with the permission of the Council, to move that this section be amended as follows:—After section 84, clause (*b*), first Proviso, add—"Provided that the amount assessed in respect of the entire occupation of any manufacturing premises shall not exceed the sum of Rs. 1,000 per annum." And in case this shall not be passed, I wish also, with the permission of the Council, to move the following alternative amendment:—After section 84, clause (*b*), first Proviso, add—"Provided that if the amount assessed in respect of the entire occupation of any manufacturing premises shall exceed the sum of Rs. 1,000 per annum, it shall be competent for any person who is dissatisfied with the valuation or rating of any such premises to have the case referred

The President.

to the Local Government for their decision." The proposal to give Municipal Commissioners power to apply the rate named in this section *ad valorem* to what is virtually an unlimited extent, and yet not to make any provision for an appeal to an independent tribunal, nor for any independent valuation of all the holdings in a Municipality, nor any stipulation that such a valuation shall be of universal application, appears to me an unfair one, for I cannot see why, after a certain point is passed, mere costliness should penalise a property. That the powers given in this section, read along with section 100, may be used so as to press most unfairly on mills and factories a very short consideration of one or two instances will suffice, I think, to show. In the budget estimates for the current year of the Serampore Municipality it is stated that the actual total receipts for taxes on houses and lands for the last completed year were Rs. 20,651. Under this law, it will be competent for the Commissioners to call upon the three mills situated therein to pay at least Rs. 10.000 or Rs. 11,000, or more than half of the whole revenue. In the Barnagore Municipality the total receipts for taxes on holdings in 1882-83 were Rs. 18,400, and of this sum the Commissioners, in like manner, could at their discretion collect about half from two mills situated therein, and so on. Surely these sums bear no fair proportion to the liabilities to taxation of these mills? In short, we have in these Municipalities the anomaly of one or two expensive holdings, occupying comparatively limited areas, causing comparatively little expenditure of Municipal funds for their special requirements, reaping no direct advantages from Municipal undertakings, and yet liable to be taxed, on account of the simple fact of their costliness, to produce sums greater than the aggregate amount produced by the assessment of many thousands of small domestic holdings in the same Municipality. And it cannot be said that if mills are heavily taxed, they benefit in proportion from Municipal Government. They attend entirely to their own conservancy, except in some Suburbs of Calcutta and Howrah, where additional taxes are levied for this purpose. They, to all intents and purposes, guard their own property, while they make little or no use of roads, nearly all their traffic being water-borne. With respect to the form of the amendment, I have preferred to follow the principle adopted further on in section 320 of Part IX, of fixing a maximum tax, rather than to propose any reduction in the rates of assessment or valuation for mills and factories, partly because, as stated before, I object to the principle altogether of industrial enterprises being classed along with domestic holdings, and partly because the existence of such a maximum will remove what is sure to be a constant bone of contention and source of irritation between the mills and Municipalities, for extensions and alterations are continually going on, necessitating a frequent re-valuation. And another recommendation is that it will remove what I fear is only a too well-grounded apprehension on the part of mill owners, that the Commissioners may use their powers in an arbitrary manner, and succumb to the temptation of regarding a mill set down in their midst as a gift sent by God to relieve domestic holdings of their fair share of

taxation. It may appear invidious to make a proposal of this kind by which small mills might be called upon to pay as much as larger and more costly ones, but I take it, the incidence of taxation ought to bear some relation to the expenses incurred by a Municipality on account of the existence of the taxed property, and this expense will generally be no greater in the case of a large mill than of a small one, and, as I have mentioned before, this principle of a maximum has already been adopted under precisely similar circumstances in a subsequent section of this Act. It is not necessary to enlarge on the probability of future projectors of mills being forced by oppressive taxation to seek for sites other than within Municipalities, or on the inconsistency of permitting burdensome impositions on, what are at many times, struggling industries, while at the same time Government is professing a desire to foster them. The whole case is very clearly stated in the memorial from mill-owners. I think, therefore, that an amendment fixing the maximum sum to be collected at the limit I have proposed should be passed. I am aware that in the Suburbs of Calcutta and Howrah the effect will be to deprive those Municipalities of considerable revenues, but that is no reason for maintaining a manifest injustice, and it is better they should be forced to seek their income from some other source than that taxes, which may be appropriate enough for wealthy Municipalities like them, should be applied without any discrimination all over the Mofussil. In these other Municipalities affected the practical result will be very small at present. I have no wish to curtail the revenues of Municipalities. On the contrary, I should be happy to see them increased, so that expenditure on desirable objects might be on a liberal scale. All I ask is that there shall be some security that industrial enterprises may not be called upon, as is possible under this Act, to pay more than their fair share. I myself am inclined to think Rs. 1,000 is more than ought fairly to be levied on any mill for house tax, and I know it will not satisfy mill-owners generally; but looking to the much more serious possibilities involved in the powers to be conferred by this Bill, I should be glad to see this amount agreed to as a maximum.

The Hon. Kumar Boykantonath De said:—With reference to the amendment proposed, I fail to see the reason for fixing a limit to the assessment of a mill, factory, &c. The present law does not prescribe any such limit. There are large buildings belonging to Government, private companies or private individuals, such as court-houses, colleges, dispensaries, banks and palaces belonging to millionares, which have hitherto been assessed without any limitation. I therefore do not understand the reason why mills and factories, &c., should have the exclusive privilege of being assessed with a limitation. There is at least some reason for such a privilege for public buildings which are exclusively used for charitable and other public purposes. But there is none for such buildings as mills, factories and palace-like houses, the owners of which would not feel the least difficulty in paying any amount of tax that may be assessed upon them. It may be urged by the Hon. Mover of the amendment that mills and factories providing for a class of community who earn

The Hon. Mr. Alexander.

their livelihood by means of labour, may be considered as very useful institutions, and that, as such, they are entitled to some consideration of lenient assessment. But I respectfully beg to point out that the owners and proprietors of such institutions are themselves largely benefited, whereas the owners and proprietors of charitable institutions and buildings derive little or no benefit. On the contrary, the public at large are benefited by such institutions. It is but a truism that the burden of the tax is more keenly felt by the poorer than by the wealthier class of rate-payers. The principle of the limitation proposed is calculated to give relief to the owners and occupiers of large mansions and buildings, whereas the poorer class remain in the same state as before. I therefore regret to be under the necessity of questioning the justice of such a principle. Under these circumstances, I respectfully beg to point out that the amendment is not based upon any principle of equity. I therefore withhold my assent to the amendment.

The Hon. Mahomed Yusuf said:—I approve of the principle of fixing a maximum limit in respect of the taxation on certain premises in the same way as is done in the Court Fees Act in respect of suits instituted in the Civil Courts. Under that Act the percentage is higher at the beginning, and it grows smaller and smaller as the value of the suit increases, until a certain limit is reached. In no case does the Court fee payable exceed Rs. 3,000. The question is whether this principle is applicable to the cases under consideration. No doubt the principle of municipal taxation is an *ad valorem* rate on the value of immoveable property. Court fees are levied on suits in the Civil Courts, partly in order to provide a check on unnecessary litigation; but in the case of jute mills and other similar industries, if a certain limit is placed upon municipal taxation, or even, if the rate goes on to be smaller after certain points are reached, it will be rather giving encouragement to those industries than otherwise. Therefore the principle for which the Hon. Mover contends, or a modification of it, is, I think, a reasonable one and ought to be applied to these cases, unless the Hon. Member in charge of the Bill can, by stating facts and figures, convince the Council that in the interests of Municipalities, it is absolutely desirable to extend the principle. I also consider that no reasonable objection can be raised against the alternative amendment proposed, that when the tax generally exceeds a certain limit, an appeal should lie to the Local Government.

The Hon. Harbans Sahai said:—I oppose these amendments, and most strongly beg to oppose them. I do not see any reason why, in the case of mills alone, the Local Government should occupy the position of an Appellate Court. The amendment is opposed to the liberal principles of this Bill. If the amendment proposed that an appeal should lie to some independent authority, such as the Civil Court, I think that would be some good reason to urge, but it does not even propose that an appeal should lie to either the Magistrate or the Commissioner of the Division, and the Hon. Mover wishes the appeal to lie direct to the Local Government. I think that, if the Council are going to grant relief in any way in the shape of an appeal, that appeal should be

referred either to the Civil Court or to arbitrators who may be appointed by the Commissioners and the mill owners concerned, and certainly not to the Local Government.

The HON. THE ADVOCATE-GENERAL said:—I shall support the amendment on the very strong ground that mills and other manufactories are comparatively young industries in this country, and require every possible encouragement for some time to come. They are also of very great benefit to the poorer inhabitants of the place, as in many of these manufactories thousands of poor natives obtain profitable employment. I consider these reasons are so obvious, that I do not think such industries should be in any way handicapped in their work. I think it unnecessary to take up any more time by further remarks, and I shall support the amendment.

The HON. MR. DAMPIER said:—Although I shall not be able to support the amendment of the Hon. Member as it stands, it does seem to me that there is something to be said for the principle that, after the assessment on a holding, with the buildings on it, has exceeded a certain value, the taxation on that higher value should not be in the same proportion as it is on buildings of a more ordinary kind. If a man, for instance, should take it into his head to build a house which was peculiarly and exceptionally expensive, although it may be very foolish of him to do so, still it does seem to me, looking to the whole object of Municipal Government and taxation, that it would not be unreasonable to say that he shall not be assessed to pay according to the value of his house, as if it were an ordinary house. I am therefore inclined to say that the rule which is sometimes adopted in such assessments ought to be adopted, namely that beyond a certain value upon which the full rate should be charged, the rate of assessment should be in some smaller proportion than the rate which is chargeable upon such smaller value.

The HON. MR. MACAULAY said:—I regret I cannot support the amendment of my Hon. friend, either as to its principle or as to its form. The Hon. gentleman opposite (Mr. Dampier) has just said that the principle which it contains may be of value to us in regard to Municipal assessments, but I think that, if the Hon. gentleman had listened to the speech of the Hon. Mover of the amendment, and had referred to the papers of which he spoke, he would have found that past experience shows that we have no need whatever to lay down such a principle. I think that the memorial of the mill owners, to which the Hon. Member has referred, in itself contains pretty fair evidence that experience does not suggest any necessity for limiting Municipal assessments on jute mills. The first of these memorials is one addressed to the Government by Messrs. Mackinnon, Mackenzie and Co., representing the Indian Jute Company. In the course of that paper they pointed out that, if the assessment had been made on those mills at the rate the law permitted, they might have been compelled to pay Rs. 4,329 per annum. I think that, if they had been compelled to pay this amount, they would be justified in saying that the law had been rigorously worked against them. But what are the facts? These Com-

missioners, who might have charged Rs. 4,329 on this mill, have in reality charged only Rs. 1,006-14, or practically the limit which the amendment proposes. In the course of the memorial from the jute mill owners at large, in which Messrs. Mackinnon, Mackenzie and Co., Messrs. Finlay, Muir and Co., and Messrs. Birkmyre Brothers are represented, they also submit facts which are valuable. I find that, whereas each of these three mills, if taxed to the full extent, would have had to pay Rs. 4,000 or Rs. 5,000 each, in fact they only pay an average of Rs. 1,050 each. In reality, therefore, up to the present time, there has been no unfair assessment, and for my part I should be inclined to say that there is not very much danger of such being the case. These very Commissioners have the power to charge some mills four or five times, and probably others ten times, what they do now, and the very fact that they have not abused their power seems to me a sufficient argument against placing a limit which we could not by any possibility extend hereafter. Then in regard to the form of the amendment, even if we do accept the limit, I think, in view of the extension of mills and other industries, it is quite impossible to fix a sum of Rs. 1,000 as a maximum rate. But I may say at the same time that there is a further objection to the amendment which is an extremely serious one. I observe that the amendment is peculiarly one of class legislation. I am quite alive to the importance of what has been said by the Hon. and learned Advocate-General as to the desirability of fostering manufacturing industries. But I cannot see why manufacturing premises should be saved, while warehouses and other establishments are left untouched. I have in my hand at the present moment a paper which bears upon the case. I have given facts to show that jute mill owners have no cause of complaint up to the present time, but I may mention the case of a Municipality in which there is a large Government godown, and which proceeded to charge on that godown, not Rs. 1,000, as in the case of jute mills, but Rs. 15,365 a year. If, therefore, there is any one who has cause for complaint, it is the Government and not the jute mill owners. I consider that the objects provided for by the amendment are not such that this Council should accept either its principle or its form.

The Hon. Mr. Reynolds said:—I had occasion to make some inquiry to ascertain whether there has been any injustice caused by excessive assessments of the kind which it is the object of the amendment to provide against. The only case, so far as I am aware, in which any such complaint has been made is that of Serampore, and I am glad to perceive from the speech of the Hon. Mover of the amendment, that although the Commissioners of that Municipality had the power to impose assessments on three mills which would have amounted to one-half as much as the whole assessment on the rest of the Municipality, I do not understand him to say that that rate of assessment had actually been imposed. The Magistrate of Howrah has informed me that he does not consider the assessment of mills and manufactories in that Municipality to have been excessive or unreasonable. The effect of the proposed amendment would be confined to a few Municipalities, and I am not aware that it would have any operation

anywhere beyond the Suburbs, Howrah, Serampore, and perhaps Serajgunge and Naraingunge. On the other hand, such an exceptional provision of law would have a very prejudicial effect; and, as has been stated by the Hon. Member opposite (Mr. Macaulay), it would be an example of class legislation which this Council has not hitherto endorsed or supported. The provisions of the Bill differ somewhat from the existing law, not in this section, but in section 100, to which the amendment of the Hon. Member properly belongs. The Bill provides that the annual value of a building shall not exceed 7½ per cent. on the cost of its erection, but it is expressly provided that the value of machinery contained in any building shall not be taken into consideration. There is a similar provision in the Calcutta Municipal Act excluding the value of machinery in the determination of the assessment. That being done, and it being borne in mind that 7½ per cent. is the maximum assessment, it cannot be said that any reasonable safeguard which mill owners can ask for has been omitted. It is provided that the valuation shall not exceed 7½ per cent. on the cost of the buildings; but it does not follow that the rate assessed would be 7½ per cent. on the annual value. Then with regard to the argument that Municipalities may use this power arbitrarily to overtax particular classes of industries, I really think the remedy is for those interested in these industries to take part themselves in the business of the Municipality, and to show the Commissioners that their interests should be considered.

His Honor the President said:—My only difficulty in the matter at present is as regards the question whether Rs. 1,000 per annum would be a fair maximum figure to impose. I really have no information to guide me beyond the few words which have occurred in the speeches addressed to this Council to-day. We hear, as regards these manufactories, that in no case do assessments exceed the maximum proposed by the Hon. Mover of the amendment, viz. Rs. 1,000; but on the other hand we hear that there is a Government institution not very far from this place which pays Rs. 15,000 per annum. I cannot conceive under what section of the Bill, which is merely a reproduction of the existing law, that taxation falls, and is so large. But it is not the Government which has to bear this Rs. 15,000 annually. It comes out of the pockets of the Public; and if it is an unreasonable taxation, I think there is some ground for interference. I shall object to the amendment as it stands on account of the class legislation which it suggests. If it can be modified so that Municipal taxation shall not exceed a certain maximum, irrespective of the class of buildings or property to which it shall apply, I shall have less hesitation in accepting it. Nor should I like the second alternative amendment, which suggests that, should the maximum exceed Rs. 1,000, there should be an appeal to the Local Government. I think that, where we trust this measure to the Municipalities to decide, assisted, I hope, by Europeans concerned in many cases, they will come to a fair assessment on which a valuation should be made without any necessity of a reference to Government, which is open to many objections. I shall therefore support the first amendment which the Hon. Mr. Alexander has suggested, if it can be made general in its terms and

The Hon. Mr. Reynolds.

application, leaving out the word "manufactories;" and a proper maximum can be ascertained.

The HON. MR. DAMPIER.—After what has passed in this debate, I understand the Hon. Mr. Alexander to be willing to withdraw his amendments, as there is practically no chance of either of them being carried.

The HON. MR. ALEXANDER:—I should like my amendments to be put to the vote.

The amendments were then put and negatived.

The HON. MR. DAMPIER said:—As the result of the proposals which have been made in regard to these sections, I desire to propose an amendment which I think would get rid of the objection that such legislation would be class legislation in favour of one particular industry only, and which should also to some extent meet the object of the Hon. Mr. Alexander's amendment. I may mention that the Court of Wards, whose example I have so often held up to this Council, follows this principle of assessment in levying contributions on estates for the general expenses of supervision and management. The amendment which I suggest may now be put in this shape, the actual figures to be adopted being left for future consideration. "If the valuation of a holding shall be in excess of an amount which would yield so much at 7½ per cent., the assessment on such excess shall not exceed the rate of so much per cent."

HIS HONOR THE PRESIDENT said:—I think there is something to be considered in this amendment, and that it will be better that we should reserve it for fuller discussion at another meeting of the Council.

The further consideration of section 84 was accordingly postponed.

The Council was adjourned to Wednesday, the 20th instant.

Wednesday, the 20th February 1884.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel the HON. S. T. TREVOR, R.E.
The HON. H. BEVERLEY.
The HON. MAHOMED YUSUF.
The HON. KUMAR BOYKANTONATH DE.

BENGAL MUNICIPALITIES.

On the motion of the HON. MR. REYNOLDS, the Council proceeded with the further consideration of the clauses of the Bill to amend and consolidate the law relating to Municipalities.

Section 33 was passed after a verbal amendment made on the motion of the HON. MR. BEVERLEY.

Section 34 was agreed to.

Section 35 was passed with the insertion of the words "at a meeting" after the word "Commissioners" in line 2, on a motion of which notice was given by the HON. CHUNDER MADHUB GHOSE, and which was accepted by the Hon. Member in charge of the Bill.

Section 36 of the Bill was agreed to.

Section 37 was also agreed to. A motion of which notice had been given by the HON. CHUNDER MADHUB GHOSE, for the insertion of the words "and shall be registered," was not carried, not having been accepted by the Hon. Member in charge of the Bill, on the ground that the amendment was rather an amendment of the Registration Law than of this Bill.

Sections 38, 39, and 40 were agreed to.

Section 41 was passed with the insertion of the words "unless otherwise provided for in this Act" at the end of the first paragraph.

Sections 42, 43, and 44 were agreed to.

On section 45 a motion to omit the second clause stood in the name of the HON. MAHOMED YUSUF, who was not at the time present.

The HON. MR. REYNOLDS said he was not prepared to accept the amendment. The section as it stood in the Bill was a reproduction of the existing law.

The section was then passed as it stood.

Section 46 was agreed to.

The HON. MR. REYNOLDS said:—The question of granting pensions and gratuities to municipal servants was brought before the Council by a communication received from the Government of Bengal in the Municipal Department, in which it was suggested that it would be a desirable thing to provide powers to grant pensions and gratuities to municipal servants. Such powers have been granted to the Calcutta Corporation since 1876. This morning I received a communication from the Secretary to the Suburban Rate-payers' Association, who appear to think that the grant of this power to the Commissioners may be misused or prostituted to other purposes. The memorialists went on to say in the latter part of their memorial—

"That, so far as your Memorialists are aware, the want of such a provision has never been felt in any Municipality, and accordingly there has been no demand made on their part for such a power. It did not find a place either in the Bill as first framed or in the Bill as amended, and afterwards re-amended by the Select Committee. The first indication of such an idea was discerned in the Hon. Mr. Macaulay's late amendment to section 26, and it was only after that proposal had been disapproved of by the Public that the Hon. Mr. Reynolds gave notice of his amendment. Your Memorialists most respectfully submit that it is not desirable that such an important alteration in the law should be proposed at such a late stage, when practically there will be no opportunity for the expression of public opinion in regard thereto."

The Hon. Mr. Reynolds.

I do not entirely follow the principle on which the Committee of the Rate-payers' Association put forward these objections, because they seem to me to imply something like distrust of the Municipal Commissioners. The memorial seems to imply that, if you trust the Commissioners with these powers to grant pensions and gratuities, to be exercised at their discretion, they will not exercise them rightly and properly. I do not myself think that that ought to be a reason for not introducing this section. The power to grant pensions is certainly a very desirable one for any public body to be able to exercise. It gives the employers a good hold over their servants, and, as far as I can judge, is one of the most effectual means of making the servant perform good and faithful service. I think it very desirable that the Commissioners should be authorized to exercise this power; and it does not seem to be an unreasonable thing that, when we are giving them other and larger powers, we should trust them to make proper rules on a subject of this kind, and to see that their rules are observed in a proper manner. If the Council are not disposed to accept the views put forward in the memorial, the Committee ask that the power be safeguarded as it is in the Calcutta Act. No doubt it is a fact that in the Calcutta Act it is made necessary that the rules should be voted by not less than two-thirds of those present at a Special General Meeting. I omitted that, because it seemed to me to be hardly necessary to declare that the rules must be assented to by two-thirds of the Commissioners, when we have the safeguard that the rules are not to take effect until they have been confirmed by the Local Government. But if the Council should be of opinion that it is desirable to put some further restrictions upon the Commissioners making rules, I have no objection to add words to that effect. I have to move the addition of the following, after Section 46:—

Section 46A.—"The Commissioners at a meeting may, from time to time, make rules for pensions and gratuities to be granted, and to be paid out of the Municipal Fund, to their officers and servants, and may repeal or alter such rules

"The Commissioners at a meeting may, from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities to any of their officers or servants as to the Commissioners may seem fit."

The Hon. Mr. Dampier said:—The amendment proposed by the Hon. Member in charge of the Bill, to which the memorial of the Committee of the Rate-payers' Association refers, is divided into two parts. The first is that the Commissioners at a meeting may make rules for the grant of pensions and gratuities, and to that first part the safeguard will be put in the section which gives a list of the measures to which the sanction of the Lieutenant-Governor is required. To this first part of the amendment I have no objection, and I entirely endorse all that the Hon. Member has said as to the value which pensionary benefits will secure in getting good and honest work from subordinates generally. I think that we who have spent the best part of our lives in gauging the feelings of employés on this subject, may fairly ask the Council to accept this as the result of our experience. With reference to the second part of the amendment, the application of these rules to cases when they

occur, I understand that it is to this that the Memorialists object most strongly. One objection is that some Municipalities are poor. The answer to that, I suppose, is that the exercise of the power to make rules for the grant of pensions and gratuities is not compulsory, but discretionary. If a Municipality cannot afford it, I suppose that the boon will be withheld on the ground of the want of funds. The Rate-payers' Association urge that "such a provision did not exist either in the Act of 1864 or in that of 1876, and this omission was evidently deliberate, having regard to the scanty resources of Mofussil Municipalities, as well as to the likelihood of the abuse of such a power in the interior." They further say:—"It is true that eight years have since elapsed, but your Memorialists will venture to observe, with due deference to the experience of the Hon. Member in charge of the amendment, that those circumstances have not yet ceased to exist so as to justify the introduction of a measure which was not deemed expedient in the year 1876." I am loath to take up the time of the Council in flogging a dead horse, but in fairness to those gentlemen who have taken the same views as I have as to the general lines of the Bill, I do not see how I can resist asking your Honor and the Members of the Council to say whether the tree is not already bearing the fruit we feared. From the beginning to the end, I have said—"are you quite sure that in relying to this extent in the governing bodies which will be created, you will represent the wishes of the people? In giving them powers are you still sure that you are giving them powers which their constituencies will be willing to trust them with?" From first to last I have harped upon this to the Council, and I ask now whether this memorial is not a striking illustration that my apprehensions were not unfounded. Here are rate-payers immediately beginning to protest against our trusting their nominees with such powers. It is impossible for me, having given up my contentious opposition to the principle, to say that because one particular Municipality has objected on one point, because the Suburban rate-payers have expressed their mistrust of their nominees in one possible contingency, the Council can properly depart from their principle of giving full confidence; and it is only on a par with the rest of the Bill that confidence should be placed on the discretion and wisdom of the Municipal bodies in this particular respect. Of course, if the rules are made, powers must be given to apply them, and I entirely concur in the remarks of these rate-payers that the power should be safeguarded in every possible way. It is invidious to discuss this question which is unpopular and unpleasant, and I think my reasons will be obvious I shall accept the first portion of the amendment as it stands; and with reference to the second, I would add such safeguards as may be thought proper.

The Hon. Boykantonath De said:—I am opposed to this amendment because the means of Mofussil Municipalities are notoriously so limited that they are not sufficient for the legitimate requirements of the rate-payers. A pensionary charge will be a serious burden upon them. There are many private institutions which do not provide for pensions to their officers and servants, and it cannot be said that they do not get efficient men to do their

The Hon. Mr. Dampier.

work. It is true that it will rest in the discretion of the Commissioners to give pensions, but I do not think that such an important matter should be left to their discretion. Should the Council, however, decide upon giving the power to the Commissioners, I hope the provision will be assimilated with the like provision in the Calcutta Municipal Act, Section 39 of Bengal Act IV of 1876.

The HON. MR. MACAULAY said:—Probably the Hon. gentleman who spoke last has not noticed that the Hon. Mr. Reynolds intends to propose an amendment in Section 58 for making all the resolutions passed in reference to this and other questions subject to the approval of the Local Government. As regards this matter, it appears to me that pension or gratuity is really deferred pay. You retain a man's services, and when the man has rendered those services, you pay him after retirement in the same way as when those services were being rendered. If you can trust the Commissioners to pay their servants while they are rendering services to the Municipality, you can trust them to pay them after they are incapable of rendering further services. I shall propose, if the Hon. Member in charge of the Bill does not object, that the rules framed under this section and sanctioned by the Lieutenant-Governor be published in the *Calcutta Gazette*. With regard to the question raised in the memorial, I may mention that on more than one occasion Commissioners have wished to grant gratuities when they have had to dispense with the services of a good officer for special reasons, but Government has been obliged to prohibit such grants on the ground of their illegality. It was decided to take steps to remove this disability without any reference whatever to the particular case to which the memorial refers. The question was considered and decided on its own merits.

The HON. MAHOMED YUSUF said:—The system of giving pension has become so popular in every civilised community that it occurs to the Public as inevitable and as necessary as leave on account of ill-health: an opposition to any proposal for granting pensions cannot but be looked upon with disfavour. But pensions and gratuities for good service are not such unmixed good as to be always encouraged. In the light of political economy, a pension means reserved pay, or a rough and ready system of insurance. When a man accepts a situation to which a pension is attached, he looks upon the amount of pension as so much kept back from his salary to be given him when he becomes unfit for further work. Acting on this principle, the East Indian Railway Company has established a scheme for deducting a certain percentage from the salaries of their officers and servants in order that the sums so deducted and the interest thereon may be afterwards given in the form of pensions and gratuities. The Civil Service Annuity Fund and other annuities are also founded on the same principle. The annuities, however, have the superior advantage of being subject to the control of the subscribers; whereas Government pensions are entirely dependent upon the pleasure of Government. Pensions are likewise liable to be entirely forfeited on dismissal

from office or on the abolition of an office, if the office-holder fails to get another post under Government within one year. Thus Government pensions do not provide the same security which insurance offices and annuity funds do. To my knowledge many officers of Government have after protracted good service failed to get pensions, because in their old age they failed to give satisfaction, or were guilty of some slight fault or other. A man under such circumstances loses his savings of a life-time. This is an element of uncertainty which does not obtain in insurance and annuity funds. I am, therefore, clearly of opinion that it is far better to resort to a system of annuity such as obtains in the East Indian Railway Company, instead of offering pensions which may prove delusive and disappointing. I would, therefore, respectfully suggest that, in the proposed section, the words "pension and gratuity" be replaced by "annuity," with such additional words as would legalise a monthly deduction from pay to keep up an annuity fund, an equivalent increase being granted from the Municipal Fund to cover the deduction. Should this suggestion not meet with the approval of the Council, I would urge that a rider may be put on the proposed section to the effect that pensions shall not be granted except at a special general meeting, at which at least two-thirds of the whole number of Commissioners vote in favour of it. This being an important matter, scarcely less important than that contained in Section 25, relating to the removal and re-appointment of the Chairman, the action of the Municipality should be subjected to the same restrictions as those which the Council has determined upon with reference to Section 25, viz. that the resolution must be that of two-thirds of the whole number of Commissioners.

The Hon. Mr. Beverley said:—I think that the amendment as framed is sufficiently wide to provide for a provident or annuity fund as my Hon. friend (Moulvie Mahomed Yusuf) has suggested.

The Hon. Mr. Dampier said:—I wish to bring to notice another point in the memorial of the rate payers. They are afraid that if such a section is put into the Act, it will raise expectations on the part of the present Municipal employés that they will all get pensions, whereas the salaries allowed them have been fixed on the supposition that there were to be no pensions. I suppose it will be quite within the scope of the rules to make it clear that previous service on a pay fixed without reference to pension will not count, or will not fully count, towards pension under these particular rules. Then with reference to what the Hon. Mr. Reynolds has just said to me, I withdraw my remarks about safeguarding the second part of the amendment. If these rules are made, it is a mere mechanical process to admit persons to pension under them as applicable to each case. Whether any safe guard is required when any Municipality may wish to make an exception for particular reasons, and not give the full benefit of the pension which the rules would allow, is another question, but the mere application of the rules is a mechanical process, and I therefore think that it need not be safeguarded.

The Hon. Mahomed Yusuf.

COLONEL the HON. S. T. TREVOR said :—I agree with a good deal of what has fallen from my Hon. friend to the left (Moulvie Mahomed Yusuf). It is becoming the fashion, now-a-days, to have provident funds instead of pensions and gratuities. My Hon. friend Mr. Beverley said that the wording of the amendment was sufficiently wide to cover provident funds, but I think it might be made clearer in this respect, so as to provide for the creation of such funds when desirable, as well as for the payment of pensions and gratuities.

The HON. MR. REYNOLDS :—After what has fallen from Hon. Members, I should like to ask the permission of the Council to postpone the consideration of this amendment to enable me to modify it and bring it forward in a clearer form.

HIS HONOR the PRESIDENT said :—It appears to me a remarkable sign that the objection to this section comes from native gentlemen. Not only, as the Hon. Mr. Dampier has pointed out, do the rate-payers object, but the native Members of this Council also, one of whom, though not present to-day, has given formal notice of an amendment, and two of whom have supported the principle that this power should not be vested in the Commissioners. As to the propriety of giving pensions and gratuities to the servants of Municipalities, my own opinion is that it is right: some form of pension or gratuity is desirable if you want good service. If you are to expect honest and laborious service, you must hold out the prospect of pensionary allowances. But I quite agree that it would be an improvement to the amendment if the suggestion made by my Hon. friend Colonel Trevor that contributions from salaries for the formation of a fund should form part of the section. I think it is therefore desirable that this section stand over for consideration till the next meeting.

The further consideration of the section was accordingly postponed.

Sections 47 to 55 were agreed to.

Section 56 having been read, the HON. MR. DAMPIER moved that the following proviso be added to the section. He understood that the Hon. Mover was inclined to consider the last item at any rate as too little to be made the subject of legislation. It might be so, for he (MR. DAMPIER) had taken the provisions from the legislation of a very small State,—England. They were taken from the Municipal Corporation Act of 1882 :—

"Provided also that the prohibition aforesaid of this section shall not be deemed to apply to any share or interest which a Commissioner may have in—

(*a*) Any lease, sale, or purchase of land, or any agreement for the same ; or

(*b*) Any agreement for the loan of money, or any security for the payment of money only ; or

(*c*) Any newspaper in which any advertisement relating to the affairs of the Municipality is inserted.

"But no person having any such share or interest shall act as a Commissioner or Member of a Ward Committee in a matter relating to any matter in which he has such share or interest."

The HON. MR. REYNOLDS said he did not oppose the amendment, but it did not necessarily follow that because a similar provision was contained in an English Statute, it should be introduced here. With regard to items (*a*) and (*b*), he thought there might be room for objection. He doubted whether a Commissioner should be interested in the sale or lease of land or the loan of money to the Municipality.

The HON. MR. DAMPIER said that where the land which was required by the Municipality belonged to a Commissioner, he could not without some such clause as (*a*) lease or sell it to them until he ceased to be a Commissioner. Clause (*b*) was intended to provide for the case of a local banker who, being a Commissioner, wished to take up a loan to the Municipality.

The HON. MR. REYNOLDS presumed that the word "contract" in this section was to be rather strictly construed, and would not apply to the cases contemplated by the amendment. The section in this Bill was more broadly expressed than in the existing Bengal Act V of 1876: it provided not only that no Commissioner should be interested in a contract with the Municipality, but that he should receive no pecuniary gratification. If he remembered right, it was the Darjeeling Municipality which represented that a mere prohibition against being interested in contracts was insufficient, if liberty was given outside a contract to receive a pecuniary gratification; and therefore the section was so worded.

The HON. MAHOMED YUSUF thought the amendment an improvement, and the prohibition of the last clause that no person so interested should act as a Commissioner in such matter was a sufficient safeguard.

After some conversation, the further consideration of the amendment and of the section was postponed.

Section 57 was agreed to.

The consideration of section 58 was postponed.

Sections 59, 60, and 61 were agreed to.

Section 62 having been read, the HON. KUMAR BOYKANTONATH DE moved that the following section be substituted for it:—

"Whenever the Commissioner of a Division or the Magistrate of a District is of opinion that the execution of any resolution or order of the Commissioners of any Municipality, or the doing within those limits of any act which is about to be done or is being done in pursuance of, or under cover of this Act, is in excess of the powers conferred by law, or the execution of the resolution or order, or doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the Public, or to any class or body of persons; he shall make a report to the effect to the Local Government, which may issue an order prohibiting the execution of such resolution, order or act, with or without modification, permanently, or for such period as it thinks fit."

He explained that the section as it stood gave too summary powers to the Commissioner of the Division and the District Magistrate to suspend the operation of Municipalities. He was of opinion that the power ought to rest with the Local Government upon the report of the Commissioner or the Magistrate.

The HON. MR. REYNOLDS said he was not able to accept this amendment. The substance of the section as it stood in the Bill was taken from Act XV of 1883, the North-Western Provinces Municipalities Act. It was quite evident that the powers to be exercised under this section should be exercised at once: a reference to the Local Government would make the power useless.

The motion was put and negatived, and the section, as it stood, was agreed to.

In section 63 the HON. MR. DAMPIER moved to substitute the words "work or act which it is incumbent on them to perform" for the words "duty imposed on them by, or" in lines 6 and 7.

The motion was put and negatived, and the section, as it stood in the Bill, was then agreed to.

Section 64 having been read, the HON. MR. DAMPIER moved to insert the words "in the opinion of the Local Government" after "if" in line 1. He said that the object of the amendment was to close one door to litigation. Under the section as it stood legal proof might be required that the Commissioners were not competent to perform, or persistently made default in the performance of their duties, or had exceeded or abused their powers, before the Government could exercise the power conferred upon it by this section. It therefore seemed to Mr. Dampier desirable to close that door by making the decision of the Government final on the point.

The HON. MR. MACAULAY submitted that the words "by an order published, with the reasons for making it" showed that the decision of the question was left to the Government.

The motion was put to the vote and carried on the following division, the President having given a casting vote in favour of the amendment:—

Ayes 4.	*Noes* 4.
The Hon. Mr. Beverley.	The Hon. Kumar Boykantonath De.
" Mr. Reynolds.	" Mahomed Yusuf.
" Mr. Dampier.	Col. the Hon. S. T. Trevor.
" The President.	The Hon. Mr. Macaulay.

The HON. MAHOMED YUSUF moved to insert the words "after giving due notice to the Commissioners" after the words "Government may" in the same section. The object was to give the Commissioners an opportunity of explaining why they had not been in a position to perform the duties required of them.

The HON. MR. REYNOLDS thought the amendment was somewhat inconsistent with the decision to which the Council had just come. The object of that amendment was to close a door to litigation, but this amendment would open the door again. It was not to be presumed that the Local Government would pass an order under this section without giving some previous intimation to the Commissioners. At the same time, to provide by law for due notice being given might raise the question whether due notice had or

had not been given. He therefore considered the words unnecessary, and that they were likely to have a bad effect.

The motion was put and negatived.

The section as amended was then agreed to.

Section 65 was agreed to, the HON. MR. DAMPIER having withdrawn the amendment of which notice had been given.

The HON. KUMAR BOYKANTONATH DE moved that the words "shall have been or may hereafter be" be substituted for "may be" in lines 5 and 6 of section 66. The object was to include fines levied under other Acts, such as the General Police Act, the Cattle Trespass Act, the Births and Death Registration Act, and the Vaccination Act, which also formed part of the Municipal Fund.

The HON. MR REYNOLDS said it was a mere question of drafting: the words "may be" covered "shall have been or may hereafter be."

The motion was put and negatived, and the section as it stood in the Bill was then agreed to.

Section 67 was passed with verbal amendments made on the motion of the HON. MR. BEVERLEY.

The HON. KUMAR BOYKANTONATH DE moved that in section 68, clause (5), line 3, the words "except such houses and schools in which religious instruction forms a part of the educational course" be inserted after schools. He said:—The recognized policy of Government was neutrality in religious matters, and religious instruction did not form a part of the educational system of Government. Following this principle he would exclude religious schools from the scope of this section. It was true that the grant of aid to religious schools would be in the discretion of the Commissioners, but where Hindu Commissioners might preponderate, they might give a grant for instruction in the Hindu religion to the annoyance of the religious feelings of Mahomedans and Christians; and where Mahomedan or Christian Commissioners might preponderate, they might do likewise with their respective religions. There would thus be raised a feeling of religious rivalry which would not be conducive to the well-being of the general community. For those reasons he proposed this amendment.

The HON. MR. REYNOLDS said he could not accept this amendment, and must express his regret that it had been brought forward. He was not aware of any reason why an alteration of the law was necessary. When the present law was passed the question whether religious instruction should be referred to was discussed, and the Council decided not to insert such words as the Hon. Member now proposed to introduce.

The HON. MR. DAMPIER said he did not see how, in conformity with the principle of full confidence which the Council had affirmed, the amendment now before the Council could be accepted.

The amendment was put to the vote and negatived.

The HON. KUMAR BOYKANTONATH DE moved that the following clause be inserted between clauses (8) and (9 , namely "the construction of serais and their maintenance," which he thought was an object which legitimately fell within the province of a Municipality.

The HON. MR. REYNOLDS thought the words unnecessary, as clause (4), which mentioned generally "other works of public utility," was sufficient to cover serais. He might explain that some of the works specially mentioned in the existing Act had been advisedly omitted by the Committee. Embankments, for instance, were not considered proper objects for municipal expenditure, and "jetties and urinals," the mention of which was also omitted, were covered by clause (4), nor did it appear why they had been inserted in the Act of 1876. Urinals, moreover, were covered by "latrines." The only subject of expenditure which was intentionally omitted was embankments: the other omissions were merely meant to be verbal improvements of the section.

The motion was then put and negatived.

HIS HONOR the PRESIDENT asked whether "tramways" were covered by "roads." There was more than one Municipality now which had under its consideration the construction of tramways.

The HON. MR. BEVERLEY said he believed that in the cases referred to the tramways were to be constructed by Companies, not by the Commissioners. He thought the Council should seriously consider before giving Municipalities power to enter into works of a speculative character.

COLONEL the HON. S. T. TREVOR observed that the Tramways Act provided that Municipal Commissioners themselves might be promoters, and therefore Municipal Commissioners were at present empowered to use the funds in their charge in the construction of tramways. He moved that the word "tramways" be inserted after "roads" in clause (1).

The HON. MR. BEVERLEY reminded the Council that the Calcutta Municipality had endeavoured to construct a tramway, and that it had proved a miserable failure. He thought it would be sufficient to leave the construction of tramways to be dealt with under the special Tramways Act.

The HON. MR. MACAULAY thought that to obviate any doubt the word "tramways" had better be inserted.

COLONEL TREVOR'S motion was then put and carried.

The HON. MR. MACAULAY stated for the information of the Council that in other Provinces Municipalities (particularly one in Bombay) had devoted Municipal Funds to the construction of warehouses for the reception of goods coming from the interior, and the result had been a great success and considerable profit to the Municipality. A proposal was made to the Government of Bengal about three years ago to consider whether that plan should not be

adopted here, but the reply was that the policy was not considered a good one, and was not authorized under the law. He wished to point out that the section now before the Council would not admit of the expenditure of Municipal Funds on such objects. He himself considered that Municipal Funds should not be devoted to speculative purposes.

Section 68 as amended was then agreed to.

Section 69 was agreed to.

The Hon. Mahomed Yusuf moved that in section 70, paragraph 1, the words "for a week" be substituted in place of "for a day." He thought one day quite insufficient for the inspection of a month's accounts: one day in the week would perhaps be sufficient.

The Hon. Mr. Reynolds said the section reproduced the existing law: It was not intended that it should be rigidly confined to a day, but there would be a great objection to fixing a whole week. He had no objection to insert the words "or days" after "day."

The Hon. Mr Beverley reminded the Council that so long as the books were open to the inspection of the rate-payers, the work of the Account Department could not go on.

The amendment was by leave withdrawn, and on the motion of the Hon. Mr. Reynolds the words "or days" were inserted after "day" in paragraph 1, section 70, and the section as amended was then agreed to.

Sections 71 to 82 were agreed to.

The Hon. Mr. Beverley moved the insertion of the words "at a meeting" after "on the recommendation of the Commissioners" in the first paragraph of section 83. He said that, unless the words "at a meeting" were inserted, the extension of the powers of the Chairman might be made on the recommendation of the Chairman himself, as under the Bill the Chairman was empowered to exercise all the powers of the Commissioners except those which were expressly directed to be exercised at a meeting.

The motion was agreed to, and the section as amended was passed.

The consideration of sections 84 and 85 was postponed.

Sections 86 to 90 were agreed to.

The Hon. Mahomed Yusuf moved that the words "the Commissioners shall" in line 8 of section 91 be substituted for "the Commissioners may" in line 8 of section 91. The section gave power to apply for a reduction of assessment in altered circumstances, but left it optional with the Commissioners to grant or refuse reduction of assessment in such cases. He contended that reduction of assessment should be made imperative where the means and property of the assessee had been reduced, and entire exemption should be given where a holding was ceased to be occupied.

The Hon. Mr. Reynolds remarked that the amendment would require the Commissioners in these cases either to pass an order of exemption or to

revise the assessment, but the clause did not apply only to the case of a man who ceased to occupy premises, but also to reduction of assessment. He therefore could not accept the amendment. He understood the object of the amendment to be that when a man had ceased to occupy, the Commissioners must in that case exempt; but the fact of ceasing to occupy need not necessarily in every case give an absolute right to exemption. He should therefore prefer to give the Commissioners the discretion provided in the section. The words "may exempt" imposed on the Commissioners the duty of exempting if cause was shown.

The motion was put and negatived, and the section was passed as it stood.

Sections 92 to 98 were agreed to.

The HON. MR. REYNOLDS drew attention to the amendment in the name of the Hon. Chunder Madhub Ghose for the substitution of "two weeks" for "one week" in line 3 of section 99, as the period for submitting certain returns called for by the Commissioners, but he considered the period of one week quite sufficient for the purpose.

The section as it stood in the Bill was agreed to.

The consideration of section 100 was postponed in connection with sections 84 and 85.

Sections 101 to 108 were agreed to.

The HON. MR. BEVERLEY moved that the following words be added to the second clause of section 109: "and that the application for refund is made within six months from the date on which such notice is delivered at the office of the Commissioners." The object was to provide some time within which such applications for refund must be made. It was a provision taken from section 82 of the Calcutta Municipal Act, and sufficiently explained itself.

The HON. MR. REYNOLDS said he did not object to the amendment. He would take this opportunity of mentioning that a representation had been made by the Deputy Commissioner of Darjeeling with reference to the necessity for a definition of a vacant holding. The Deputy Commissioner said it was a common thing for an unoccupied house in Darjeeling to be kept more or less furnished, and to be left in the charge of a chowkidar or caretaker, and it was a question whether, as long as the owner received no rent, the holding should be treated as a vacant holding. Mr. Reynolds did not think that the holding should, under such circumstances, be considered a vacant holding, and he had not therefore brought forward any proposal for defining a vacant holding.

The HON. MR. BEVERLEY's amendment was agreed to, and the section as amended was passed.

Sections 110 to 119 were agreed to.

The HON. MR. REYNOLDS drew attention to an amendment standing in the name of the Hon. Chunder Madhub Ghose to insert the words "on the

serving officer making an affidavit stating the due service of the bill and the notice" after "defaulter" in line 18, paragraph 1 of section 120. He could not accept the amendment.

The HON. MR. BEVERLEY moved to substitute the words "moveable property belonging to any other person," in place of the words "such moveable property" in line 21, paragraph 1, of section 120. The object of the amendment was to make the law clear, and not to alter it in any way.

The HON. MR. REYNOLDS accepted the amendment, which merely prevented the possibility of mistaking the intention of the existing law, regarding which there could be no doubt.

The motion was carried, and the section as amended was agreed to.

Section 121 was agreed to.

The HON. MR. REYNOLDS drew attention to an amendment on section 122 in the name of the Hon. Chunder Madhub Ghose, which was of a similar character to that on section 120, and which he consequently could not accept.

Section 122 was then agreed to.

Sections 123 to 129 were also agreed to.

Section 130 having been read, the HON. MAHOMED YUSUF moved to omit the words "to Government or" in clause (*c*), lines 1 and 2, as he did not see why carriages and animals belonging to Government should be exempted any more than public offices and other public buildings.

The HON. MR. REYNOLDS said he could not accept the amendment. The exemption of carriages and animals belonging to Government had always been made by law. The reference by the Hon. Member, Mr. Reynolds thought, was an argument which cut both ways: it might go to show that Government buildings ought to be exempted.

After some conversation, the motion was put and negatived.

The HON. MR. BEVERLEY moved that the following clause be added to section 130—

"(*h*) Carriages or animals kept in Calcutta and habitually used in the Suburbs of Calcutta and Howrah."

He said that the section provided that not only carriages that are kept but also those which are habitually used within the Municipality should be liable to the tax, so that persons living in Calcutta and having their work in the Suburbs or at Howrah, would under the section be liable to pay twice over—*first*, in Calcutta; and *secondly*, in the Suburbs or Howrah, where their carriages were habitually used.

The HON. MR. REYNOLDS thought that if such persons were entitled to claim exemption anywhere, they should claim it in Calcutta, but he could not agree to their exemption from taxation in the Suburbs or Howrah, where their carriages and horses were habitually used and wore out the roads. Either people who habitually used their conveyances in the Suburbs or Howrah

should not keep them in Calcutta, or they should apply to the Calcutta Municipality for exemption.

The HON. MR BEVERLEY said the section not only applied to carriages and animals belonging to private individuals, but also to the owners of hackney carriages.

After some conversation, the motion was put and negatived on the following division:—

Ayes 2.	*Noes* 6.
	The Hon. Kumar Boykantonath Dé.
	,, ,, Mahomed Yusuf.
The Hon. Mr. Beverley.	Col. The Hon. S. T. Trevor.
,, Mr. Dampier.	The Hon. Mr. Macaulay.
	,, Mr. Reynolds.
	,, the President.

The section was then passed with some verbal amendments made on the motion of the HON. MR. BEVERLEY.

Sections 131 to 139 were agreed to.

The HON. MR. BEVERLEY moved to insert the words "except for special cause shown" after the words "the Commissioners" in the ante-penultimate line of section 140.

The motion was agreed to, and the section as amended was passed.

The HON. MR. BEVERLEY said, with reference to the proviso in section 141, that carts used in Howrah or the Suburbs of Calcutta were already taxed and registered under the Calcutta Act, the proceeds of such taxation being divided in certain proportions between the three Municipalities. With a view to make the proviso applicable to that state of things, he moved verbal amendments which would make it run as follows:—

"This section shall not apply to—

(*a*) Carts which are the property of Government or of the Commissioners;

(*b*) Carts which are kept without the limits of the Municipality, and are only temporarily and casually used within such limits;

(*c*) Howrah or the Suburbs of Calcutta.

The motion was put and agreed to, and the section as amended was passed.

Section 142 was agreed to.

Section 143 was passed with a verbal amendment.

Sections 144 to 146 were agreed to.

Sections 147 and 148 were passed with verbal amendments.

Sections 149 to 151 were agreed to.

Section 152 was passed with a verbal amendment.

His Honor the President, in adjourning the Council, drew the attention of the Members to Rule XI of the rules for the conduct of business. That rule provided as follows:—"In discussing questions which come before the Council for consideration a Member shall speak from his place, shall rise when he speaks, and shall address the President. A Member shall not be allowed to read his speech, but may refresh his memory by referring to notes." He thought the Council was getting somewhat lax in the observance of that Rule, and that the reading of prepared speeches tended to prolong the proceedings of the Council. Large allowance must of course be made for the native Members of the Council, who had not the same facility in speaking English as other Hon. Members, although many of them often excelled in oratory. Every latitude would, however, be given for reference to notes, but he wished to remind the Council of the existence of the rule and the desirability of maintaining it as far as it could be done.

The Council was adjourned to Saturday, the 23rd instant.

Saturday, 23rd February 1884.

Present:

His Honor the Lieutenant-Governor of Bengal, *President.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. L. Dampier, C.I.E.
The Hon H. J. Reynolds.
The Hon. C. P. L. Macaulay.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. H. Beverley,
The Hon. Mahomed Yusuf.
The Hon. Harbans Sahai.
The Hon. Kumar Boykantonath De.

PARTITION OF ESTATES.

The Hon. Mr. Dampier moved for permission of the Council to withdraw the Bill to amend the "Estates Partition Act, 1876." He said:—Sir, while the Bill for the amendment of the Estates Partition Act has been before this Council, a strong feeling has been expressed against any legislation which shall have the effect of restricting the right which proprietors of small interests in estates now have of obtaining a perfect partition of their interests, both as to land and as to the general liability for the payment of land revenue. That feeling has found expression not only in this Council, but also outside in the exponents of the opinions of some classes of the Public, and I found in personal discussion with some of the officers from the districts in which partitions are most common that they also share in the feeling. I therefore thought it right to lay before your Honor the objections which had been made to the measure, and to ask whether your Honor considered it desirable.

The President.

under the circumstances, that the measure which had been entrusted to me should be further proceeded with in this Council. Your Honor came to the conclusion that it should not be proceeded with, observing that the relief sought to be given to public officers would, to some extent, be met by the provisions of the Tenancy Bill, which will simplify the carrying out of such partitions. It is a pleasant thing, Sir, to sail with the fair wind of popular opinion instead of being obliged to beat up against it. It is, therefore, with some satisfaction that I ask the leave of this Council to withdraw the Bill to amend the Estates' Partition Act.

The motion was put and agreed to.

The HON. MR. DAMPIER :—I beg to withdraw the Bill to amend the Estates' Partition Act of 1876.

HOWRAH AND SUBURBAN POLICE.

The HON. MR. REYNOLDS presented the report of the Select Committee on the Bill to regulate the Police in the Municipalities of Howrah and the Suburbs of Calcutta.

CALCUTTA TRAMWAYS.

COLONEL the HON. S. T. TREVOR moved for leave to introduce a Bill to amend the Calcutta Tramways Act, 1880. He said:—I hope I shall not detain the Council many minutes in explaining the circumstances which have rendered the introduction of this Bill necessary. The construction of tramways in Calcutta and the Suburbs was first authorized in Act I of 1880 of this Council. This Act provides for the construction of tramways along certain routes which are specified in the agreement which is appended to the Act. The routes are also recited in Section 3 of the Act, and the Preamble of the Act shows its intention to be to provide also for "such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved." Section 3 of the Act provides for the construction of tramways in Calcutta within the limits of the jurisdiction of the Corporation. Section 4 provides for suburban and other tramways not specified in the Act, and prescribes the procedure to be observed in bringing them under the operation of the Act. Now, while I think there can be no doubt, having regard to the Preamble of the Act, that the intention of it was to provide for and cover not only the particular tramways enumerated, but such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved, yet the literal wording of the Act actually covers only such tramways as are wholly within the jurisdiction of the Corporation, or of the Municipal Commissioners for the Suburbs, and does not cover any portion of such tramways as it may be expedient to carry across any portion of the maidan. As a matter of fact, portions of the tramway have been made on the maidan. For instance, a portion of the Corporation tramway No. 5,

which is included in the Act, and runs along Dhurrumtollah, Esplanade Row, and Old Court House Street, I mean the portion along Esplanade Row, is situated on the maidan, and not within the limits of the Town of Calcutta. It was found that Esplanade Row was too narrow to admit conveniently of a double line of tramway being constructed on it, and the grantees applied to the late Lieutenant-Governor for permission to encroach on the maidan, and this permission was granted, without, at the time, attention being drawn to the fact that a strict interpretation of the Act made such permission *ultra vires.* The tramway itself was provided for in the Act, but there was no provision for allowing the location of it to deviate a few feet to the south, such deviation taking it over the boundary of the Corporation. To show how the deviation was made in complete ignorance of the fact that it carried the tramway out of the provisions of the Act, I may mention that the grantees continued to pay rent for the line to the Corporation, as provided in the agreement. Then there is another instance in the tramway which has been made across the maidan to connect the suburban tramway from Garden Reach to Kidderpore with the town tramways at Dhurrumtolah. The suburban portion of the tramway to Kidderpore was sanctioned, and has been made quite in accordance with the procedure laid down in the Act. It was always intended that the line should be prolonged from Kidderpore to join the town system of tramways, and the route by which this junction was to be effected was the road along the southern margin of the maidan. It seems to have been taken for granted that such a junction was permitted under the provisions of the Act. When the grantees began to make the suburban line, they applied to change the route by which the junction between the suburban and town line was to be effected, from the position first assigned to it along the south edge of the maidan, to the road which runs diagonally across the maidan from the Kidderpore Bridge to Dhurrumtollah corner. This proposal was considered merely as one to change from an already authorised line to another more convenient one. The sanction of the Government of India was obtained to it, and as the grantees pressed for permission to go on with it and complete it before the Exhibition, permission was granted; and it was only when the agreement came to be drawn up that it was discovered that the Act did not cover it. Hence the necessity for introducing a short Bill to amend Act I of 1880, so as to extend the definition of Calcutta to include the maidan, and to confer on the Government of Bengal, in respect of any portion of the line which crosses the maidan, the same powers as are vested in the Municipalities, in respect of the portions within their respective jurisdictions.

The motion was put and agreed to.

BENGAL MUNICIPALITIES.

On the motion of the Hon. Mr. Reynolds, the Bill to amend and consolidate the law relating to Municipalities was further considered in order to the settlement of its clauses.

Colonel the Hon. S. T. Trevor.

The HON. MR. REYNOLDS asked the Council to go back to section 46. When the question of pensions and gratuities was last discussed he understood the Council to be in favour of the principle of the section then proposed, and it was suggested that it might be a convenient arrangement to provide for contributions from salaries in the way of Provident and Annuity Funds. It was a question whether the wording of section 46A, which stood in the first paper of amendments, was sufficiently wide to cover the creation of such funds, as it merely provided that pensions and gratuities might be granted; and he understood, it was considered, on the advice of the Legal Officers of Government, that the section as then drafted was not sufficient. The following section was accordingly drafted, and he moved that it be inserted in the Bill:—

46A.—"The Commissioners at a meeting, by a resolution, in favour of which not less than two-thirds of the Commissioners present at such meeting shall have voted, may from time to time make rules for—

(*a*) the granting of pensions and gratuities out of the Municipal Fund; or

(*b*) the creation and management of a Provident or Annuity Fund for compelling contribution thereto on the part of their officers and servants, and for supplementing such contribution out of the Municipal Fund.

And may repeal or alter such rules.

"The Commissioners, at a meeting, may from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities, or grant allowances or annuities out of such Provident or Annuity Fund, to any of their officers or servants as they may see fit."

The HON. MR. MACAULAY did not know if the Hon. Member proposed to give any further information to the Council regarding the general provision for the establishment of these funds. He considered it would be a mistake. It would be tantamount to suggesting to the Municipalities that they should adopt a general line of conduct in regard to pensions which they had not hitherto adopted, and which he thought should not be adopted. The original proposal was intended to provide for special circumstances, but the section as now worded was likely to lead to much larger results, and he thought the Council should hesitate to accept it in the absence of fuller explanation. There were several questions connected with it which required consideration.

The HON. MAHOMED YUSUF said that the remarks which had just been made applied equally to the grant of gratuities as well as of pensions, because, apparently, the sense of the rate-payers of the Suburban Municipality was against the grant of either pension or gratuities. But if it was determined that some provision of this kind should find place in the Bill, then he thought the section now proposed should be adopted. He considered, however, that, as in the case of the removal of the Chairman, the consent of two-thirds of the whole number of Commissioners should be required to the making of rules, instead of two-thirds of the number present at a meeting; because when rules were once framed the grant of pensions and gratuities in individual cases must be governed by those rules.

The Hon. Mr. Beverley said he understood that the principle was accepted at the last meeting, that the Commissioners should be allowed to make rules for pensions and gratuities, and that such pensions and gratuities might be secured by way of a Provident or Annuity Fund. A provision for the grant of pensions or gratuities was a valuable guarantee for good and faithful service, for so long as an officer knew that by any gross misconduct he would forfeit his claim to pension (which, after all, might be defined to be a portion of his pay reserved for future payment), he had an incentive to good behaviour. But if the question was to be re-opened, Mr. Beverley was inclined to support the objection of the Hon. Member, Mr. Macaulay: he was not in favour of allowing the Commissioners to establish Provident or Annuity Funds. An officer who contributed a portion of his pay to any such fund would imagine he had a right to his accumulated balance even in case of dismissal, and would consider it a grievance if he forfeited it; whereas the grant of pensions or gratuities was entirely in the discretion of the Commissioners: the guarantee, therefore, to which he had referred, would be done away with, and he thought that was a strong argument against the establishment of Annuity or Provident Funds.

The Hon. the Advocate-General said he could not understand the objection taken to the section, as it was now proposed to be passed. It was admitted on all hands that it would be a proper thing on the part of Municipalities to reward their servants for faithful services. With regard to clause (*b*) of the section, if a Municipality was not wealthy enough to grant pensions or gratuities, it could establish a Provident or Annuity Fund and supplement the contributions thereto of their servants, so that in due course they might get pensions: to that there could be no possible objection. With regard to the objection taken by the Hon. Member who spoke last, that the servants who subscribed to a fund would consider they had an interest in it notwithstanding their dismissal from service, he thought that, in such cases, the rules would naturally provide that the subscriber would receive back the amount of his subscriptions.

Col. the Hon. S. T. Trevor said that at the last meeting he thought mention was made by himself that it had become customary, even in some Government establishments, to have Provident Funds. The revenue establishments of the Railway Department were non-pensionable, and Provident Funds had been established which answered the same purpose as the usual pension rules.

The Hon. Mr. Reynolds said he was not in favour of the amendments suggested by the Hon. Mahomed Yusuf, and he thought it was quite right that the determination to frame rules should rest with two-thirds of the members present at a meeting; and he also thought that when rules were passed, the grant of pensions in individual cases should not be restricted by the limitation proposed that two-thirds of the whole number of Commissioners should vote in its favour. The removal of the Chairman was a very exceptional case, and two-

thirds of the whole number of Commissioners might reasonably be required to vote for such a resolution; but the grant of a pension, which was merely the particular application of general rules, might safely be left to the vote of a majority of the Commissioners at a meeting. With regard to the general principle, he understood at the last meeting that the addition to the section of some words to provide for the establishment of Provident and Annuity Funds had been agreed to. He thought the objections to it were, in some degree, unfounded.

His Honor the President observed that the whole section was permissive. The first part of the section permitted the Commissioners to make rules, and the second part provided that the Commissioners might, in accordance with those rules, grant pensions to their officers and servants. Would it not be in the power of the Commissioners to make a rule that for granting a pension to any one, two-thirds of the whole body of the Commissioners must be present?

The Hon. Mr. Reynolds replied that there was nothing to prevent the Commissioners from adopting such a rule.

The motion was then put and agreed to, and the section as amended was passed.

The consideration of section 56, which was also reserved at the last meeting, was resumed.

The Hon. Mr. Reynolds said it was suggested by the Hon. Mr. Dampier that a proviso should be added to the section excepting certain kinds of contracts from its operation, and the sense of the Council was that some such provision was necessary: the revised section of which he had given notice enlarged the exceptions in the existing Act, but the provisions now introduced were in accordance with the English law. He moved that the following section be substituted for section 56:—

56. (1) "No Commissioner or Member of a Ward Committee shall have, directly or indirectly, by himself or through others, any share or interest in any contract made with the Commissioners; and if any Commissioner shall have such share or interest, he shall thereby become disqualified to continue in office as Commissioner, and shall be liable to a fine not exceeding five hundred rupees.

(2). A Commissioner shall not be so disqualified by reason only of his having a share or interest in—

(*a*) A contract entered into between the Commissioners and any incorporated or registered company of which such Commissioner is a member or shareholder; or

(*b*) any lease, sale, or purchase of land, or any agreement for the same; or

(*c*) any agreement for the loan of money, or any security for the payment of money only; or

(*d*) any newspaper in which any advertisement relating to the affairs of the Municipality is inserted.

"But no such Commissioner shall act as Commissioner or Member of a Ward Committee, or take part in any proceedings relating to any matter in which he is so interested."

The motion was put and agreed to.

The HON. MR. REYNOLDS moved that the following clause be inserted in the postponed section 58, with the object of providing that such rules should be subject to the approval of Government:—

"(*d*) Rules under section 46A for the making, repeal or alteration of rules for the grant of pensions or gratuities, or for the creation and management of provident funds."

The HON. MR. MACAULAY suggested the addition to the clause of the words "and shall, after the approval of the Local Government, be published in the *Calcutta Gazette*." He considered that publicity in regard to these rules was highly desirable, and pointed out that the Calcutta Act required publication of all pension rules in the *Gazette*.

The HON. MR. REYNOLDS did not think a legal enactment was required for the publication of the rules, and besides he did not consider they would be of such general interest as to need publication in the way proposed.

The HON. MR. REYNOLD'S motion was carried, and the section as amended was passed.

The consideration of the postponed section 84 was allowed to stand over to the next meeting of the Council.

The HON. MAHOMED YUSUF moved that in the postponed section 85, clause (*d*), the words "and not exceeding five per centum when the houses and lands are situated in streets not so supplied," be omitted. He said these words had the effect of imposing a water-rate in cases in which the payer of the rate had no interest, inasmuch as he did not get the benefit of water in his house.

The HON. MR. REYNOLDS could not accept the amendment. The provision was in accordance with the Calcutta Act, and he thought it would be admitted that whether there was water laid on in any particular street or not, the introduction of a pure supply of water was a benefit to all the inhabitants, and all the rate-payers should therefore be called upon to pay the water-rate. The section provided a differential rate in those more favoured streets which had the advantage of a direct supply of water, but the other rate-payers benefited as well, though in a less degree, and it would be against every principle of fairness and justice to say that they should not pay at all.

HIS HONOR THE PRESIDENT remarked that the provision objected to appeared more open to question than it really was. When water was laid on in a large city like Dacca or Bhagulpore, those who enjoyed a direct supply greatly benefited, but others benefited as well. He supposed the Commissioners would regulate the rate according to the benefit derived by particular streets.

The HON. THE ADVOCATE-GENERAL observed that when such a provision was retained, it might act as an inducement to the Commissioners not to lay down water throughout the whole town.

The motion was put and negatived.

The HON. MR. BEVERLEY moved that the words "or such other rate as is provided by section 311" be added to clause (*e*) of the same section; this addition, he said, was necessary because by section 311 a lighting rate was imposed in Municipalities which might not impose a rate on holdings.

The motion was agreed to, and the section as amended was passed.

The HON. MAHOMED YUSUF moved to substitute the words "the present market value of the house" for the words "such cost" in the postponed section 100, provisoe 1, lines 6 and 7. He said that according to this proviso if a building cost five lakhs of rupees, although its value might have dwindled to Rs. 5,000, the rate could be assessed on the original cost. He did not see the justice of assessing the rate on the original cost of a building; but if the market value was taken into consideration, a just assessment would be made. A *golpatta* house might cost Rs. 500 to construct but in five years might not be worth Rs. 50, and it would be very oppressive to assess the rate on the original cost of construction; moreover the operation of the provisoe would work very harshly in the case of old families of distinction who had been reduced to poverty but still held to their ancestral mansions.

The HON. MR. MACAULAY did not think the Council should adopt the amendment, because in many cases there might be no market value. A man who possessed a palace might wish to dispose of it, but would probably not get a purchaser. The same might be the case with a mill or factory. The section gave something definite to go upon, whereas the amendment gave nothing definite.

The HON. MR. REYNOLDS remarked that the amendment was opposed to the whole principle of the provisoe, which gave a definite mode of valuation in cases where it was not possible to ascertain the gross annual rental; and that provision was safeguarded by the second proviso, that in estimating the value of a holding the value of machinery in it should not be taken into consideration.

The motion was put and negatived.

The further consideration of the section was postponed.

Section 156 was passed with the addition of the words "at a meeting" after "Commissioners" in line 3, notice of motion to which effect was given by the HON. CHUNDER MADHUB GHOSE; and after a verbal amendment made on the motion of the Hon. Mr. Beverley.

Section 157 having been read, the HON. MAHOMED YUSUF moved that the words "with capital raised by loan" be inserted after "this Act" in line 7 of paragraph 1. He said that under this section the Commissioners might levy tolls on all bridges and roads, but the object of this amendment was to restrict the establishment of toll-bars to certain cases, namely, to bridges and roads constructed with capital raised by loans. If a Municipality was not obliged to borrow money to meet extraordinary expenditure, why should additional taxation be raised? But if the income of the Municipality was insufficient

and the Commissioners were obliged to raise money by loan, there was then some reason for levying tolls in addition to the ordinary taxation.

The Hon. Harbans Sahai opposed the amendment, on the ground that it was not only the residents of the Municipality who would be subject to the payment of tolls, but outsiders: he saw no reason why, because a Municipality had sufficient funds to construct bridges and roads, they should not be permitted to levy tolls for the use of such bridges and roads.

The Hon. Mr. Dampier said the present discussion afforded an example of the gradual progress in improved administration. Before the Act of 1876 was passed, tolls were generally imposed on roads and bridges everywhere. That was pronounced to be bad policy, and the levy of tolls in general was given up. This section was then introduced into the Act, so that the abolition of tolls should not act as a deterrent to a Municipality in making new roads and bridges, and the levy of tolls on such roads and bridges was authorized until the cost of construction had been paid off. Now, another step forward was proposed by the Hon Mover of the amendment,—that tolls should only be levied in cases in which money had to be borrowed for the construction of a road or bridge; and the next proposal, which might be that tolls should not be levied even in such cases, would be the attainment of ideal perfection. In the present state of Municipal Funds, and in view of the existing requirements for improvement of communications, however, he thought that the special reason which existed in 1876 still prevailed—not to make any change which might have a tendency to discourage the making of new roads and bridges. He must therefore vote against the amendment, but he wished to bring to the notice of the Hon. Member in charge of the Bill what might be the effect of this section. Under the existing law certain roads and bridges lately made were now paying for the cost of construction by the levy of tolls. But the present Act would be repealed by this Bill. He doubted whether the continued levy of such tolls was covered by the saving clauses at the beginning of the Bill.

The Hon. Mr. Reynolds said he was not prepared to accept the amendment before the Council, which proposed to confine the operation of the section to roads and bridges constructed by means of loans. The great mass of Municipalities did not contemplate the construction of such large works as would require the contracting of loans. And, generally speaking, the tolls on those roads and bridges would be of a very moderate character. Then there was good reason in what had fallen from the Hon. Harbans Sahai that the effect of the section would be to recover a part of the cost of construction, not from the residents of the Municipality, who already paid rates, but from those who lived outside municipal limits. With regard to what fell from the Hon. Mr. Dampier, he might say that the point had been considered in Committee, and he understood it was the opinion of the Legal Members of the Council that section 2 was sufficient to cover the levy of tolls now raised on roads and bridges.

The motion was put and negatived, and the section was passed as it stood.

Sections 158 to 173 were agreed to.

Section 174 was passed with a verbal amendment.

Section 175 having been read, the HON. HARBANS SAHAI called attention to the amendments standing in the name of the Hon. Chunder Madhub Ghose. One of these was to substitute "seven days" for "five days" as the period within which objections might be preferred against an order to do a certain work. The other amendment was a more important one. It was to add to the second paragraph the words "subject, however, to an appeal to the Commissioners in meeting," against the decision on such objection of the Chairman or Vice-Chairman.

The HON. MR. REYNOLDS observed that "five days" was the period allowed under the existing law for making objections, and there seemed no reason to extend the time. The proposal for an appeal to the Commissoners seemed unnecessary, because, under the succeeding section 176, the objection must be heard by the Commissioners at a meeting when the work to be executed was of any magnitude and the cost was likely to exceed three hundred rupees. The orders to be dealt with under section 175 were of a trivial character, and considerable expense and delay would be caused if every objection to a trivial order was to be heard and disposed of by the Commissioners at a meeting.

The motions were, by leave, withdrawn, and section 175 as it stood in the Bill was agreed to.

The HON. MR. BEVERLEY moved that the words "to the Commissioners such sum not exceeding three hundred rupees as the Chairman or Vice-Chairman shall certify to be the probable" be substituted for the words "in the said sum of three hundred rupees to the Commissioners as the" in lines 8, 9 and 10 of the proviso to section 176. He thought the requisition for the payment of the full sum of three hundred rupees was rather unfair if a less sum would suffice. The owner should only be bound to pay the specific sum which the Chairman or Vice-Chairman considered the work would cost.

The HON. MR. REYNOLDS thought the section a reasonable one. The supposition was that the person objecting alleged that the work would cost more than three hundred rupees, and it seemed fair that the Chairman should say—well, give us three hundred rupees, which you admit is less than the work will cost, and we will do the work. Mr. Reynolds did not think the objector should be allowed to pay any smaller sum when by his own showing it was likely to cost more.

The motion was put and negatived, and the section was passed as it stood.

Sections 177 to 179 were agreed to.

The HON. MR. BEVERLEY said he would explain the next three amendments together. They had reference to section 174, and would provide for

cases in which there was doubt as to who the owners or occupiers were. He moved the following amendments :—

Section 180, *paragraph* 1, *line* 7.—For the words "such owners," substitute "such of the owners as are known."

In line 5 of the second paragraph, for the words "such occupiers," substitute "such of the occupiers as are known."

Section 181, *line* 7.—After the words "and occupiers" insert "or such of them as are known."

The amendments were agreed to, and sections 180 and 181 as thus amended were passed.

The HON. MR. BEVERLEY moved the introduction of the following new section after section 181 :—

181A.—"It shall not be necessary to make the Commissioners a party to any suit for contribution brought by any owner or occupier who may have paid any portion of such expenses under the last two preceding sections, unless such suit is also brought to contest the liability of the said owner or occupier, or the amount of the expenses payable."

This section, he said, was the *sequitur* of what had just been done. It might be necessary for the owners or occupiers who had to pay for the cost of works to bring a suit for contribution against other persons, and the object of this section was to prevent the Commissioners being made parties to such suit, unless it was a case that came under section 184.

The HON. the ADVOCATE-GENERAL said he thought this section unnecessary. If the Commissioners were not necessary parties to the suit, they could not be made parties: if they were, this Council could not prevent the Court from making them parties.

The motion was, by leave, withdrawn.

Sections 182 and 183 were agreed to.

The HON. MAHOMED YUSUF moved that the proviso to Section 184 be omitted, unless the Council considered that the interests of Municipalities required the sacrifice of a clear and equitable principle, viz. that proceedings should be stayed pending the decision of a Civil Court. If a suit had been decreed, it was in the discretion of the Appellate Court to stay execution, but this proviso declared that the pendency of a civil suit would not be a bar to the recovery of certain expenses and fees.

The HON. MR. REYNOLDS said he could not agree to the omission of this proviso, which was a reproduction of the existing law, and was also contained in various other Acts.

The HON. HARBANS SAHAI also opposed the motion. The effect of omitting the proviso would be that suits would be instituted and proceedings stayed for an indefinite time.

The motion was put and negatived, and the section as it stood was agreed to.

Section 185 was passed with a verbal amendment.

The Hon. Mr. Beverley moved to substitute the following section for section 186:—

"In any such case the Court may, on the application of any person interested, summon the Commissioners and any other persons interested to appear at a time and place to be named in such summons.

"Upon the appearance of the parties, or in the absence of any of them upon proof of due service of the summons, the Court may proceed to determine the amount of damages or compensation payable by the Commissioners, and, if necessary, the apportionment of the same among the persons interested; and for this purpose may examine the parties, or any of them, and their witnesses on oath or affirmation; and the Court may also determine the costs of such enquiry, and by what persons and in what proportions they shall be paid.

"The provisions of section 363 shall *mutatis mutandis* apply to applications under this section."

He said this was rather an important matter. The necessity for the amendment arose from what appeared to be the incorrect drafting of the present Act. Sections 185 to 187 had been taken apparently from the Calcutta Municipal Act, Sections 353 to 355: but in the Calcutta Act those sections were contained in a Chapter headed "Of the recovery of damages and expenses," and related to the realization of costs and expenses payable by private individuals, rather than to damages or compensation to be realized from the Commissioners. The recovery of expenses payable by private parties was provided for by Section 182, and Section 185 had been restricted to damages or compensation to be paid by the Commissioners. Section 186, however, which had been taken almost *verbatim* from the Calcutta Act, spoke of "either party," and Section 187 provided that the damages should be recovered by distress and sale of the Commissioners' moveable property. This, he thought, could never have been intended. The work of the Municipal Commissioners could not go on if their conservancy carts, for instance, were liable to be seized at any moment. He had, therefore, re-drafted Section 186 and proposed to omit Section 187.

After some conversation, the consideration of sections 186 and 187 was postponed.

Sections 188 to 190 were agreed to.

The Hon. Mahomed Yusuf moved that the words "in respect of the removal of such rubbish, with the consent of the occupier of any house or land, from such house or land, or" in lines 11, 12, and 13 of section 191 be omitted. He said that under section 198 all rubbish was the property of the Commissioners, and under section 191 the Commissioners might charge fees for the removal of rubbish from houses and lands, as well as for the removal of rubbish which had accumulated in the exercise of a trade or business. He had no objection to a charge for the removal of trade rubbish, but he submitted that, as all rubbish was the property of the Commissioners, fees should not be charged for its removal from houses or lands even with the consent of owners. He was afraid of such provision being liable to abuse.

The Hon. Mr. Reynolds objected to the amendment. He thought there was some misapprehension of the object and force of the section. The three

cases for which the section provided were separate—*first*, there was the ordinary case in which house rubbish was placed in a convenient part of the road and then removed in the ordinary duty of sanitation; *then* there was the proviso for charging fees for the removal of trade rubbish. The *third* case was that in which rubbish was removed for the convenience of occupiers, not from the road, but from private premises. The word "consent" did not apply to the charging of fees, but to the removal of the rubbish.

The HON. MR. DAMPIER asked, if the meaning was that the Commissioners and the owners of premises might enter into voluntary agreements for the removal of rubbish from the premises themselves, what was the use of stating in the law that they might do so?

The HON. the ADVOCATE GENERAL explained that the section empowered the Municipality to enter into this particular kind of contract.

The HON. HARBANS SAHAI thought the section should stand as it was. The three cases provided for by this section were already being worked. Unless the Commissioners were authorized by law to do so, they could not enter into a private contract with any individual. It was in some cases necessary and convenient to both parties that rubbish should be removed from houses according to arrangements entered into between them.

The motion was put and negatived, and the section was passed as it stood.

Section 192 was agreed to.

The HON. HARBANS SAHAI withdrew the notice of amendment in section 193 which stood in the name of the Hon. Chunder Madhub Ghose.

Section 193 was then agreed to.

Sections 194 to 201 were also agreed to.

The HON. HARBANS SAHAI, on behalf of the Hon. Chunder Madhub Ghose, moved that the words "or show cause why the order should not be carried out" be added to the first paragraph of section 202. The amendment was simply by way of safeguard; it would allow a man fully to represent his case before a final order was passed.

The HON. MR. REYNOLDS thought it lay with the mover of the amendment to show why this additional safeguard was needed. He was not in favour of the amendment because he did not consider it necessary.

The HON. THE ADVOCATE-GENERAL pointed out that as the owner or occupier was to be allowed eight days, or such longer period as the Commissioners might fix, to execute the work, there was nothing to prevent his representing to the Commissioners that what was complained of was not a nuisance.

The amendment was put and negatived, and the section as it stood was passed.

Section 203 was agreed to.

The further consideration of the Bill was postponed.

The Council was adjourned to Saturday, the 1st March 1884.

The Hon. Mr. Reynolds.

BENGAL SECRETARIAT LIBRARY

Saturday, the 1st March 1884.

Present:

His Honor the Lieutenant-Governor of Bengal, *President.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. L. Dampier, C.I.E.
The Hon. H. J. Reynolds.
The Hon. C. P. L Macaulay.
Colonel The Hon. S. T. Trevor, R.E.
The Hon. H. Beverley.
The Hon. Harbuns Sahai.
The Hon. Chunder Madhub Ghose.
The Hon. Boykontonath De.

HOWRAH AND SUBURBAN POLICE.

The Hon. Mr. Reynolds moved that the report of the Select Committee on the Bill to regulate the Police in the Municipalities of Howrah and the Suburbs of Calcutta be taken into consideration in order to the settlement of the clauses of the Bill. He said that the alterations which had been made in the Bill by the Select Committee were not in any way of an important character, and were really directed to nothing more than the abbreviation and simplification of the wording of the Bill as it previously stood. It was provided by the amended Bill that it should come into operation on the same day as the Bengal Municipalities Bill, 1884, as this was really the intention of the original draft, which declared that the Bill should come into operation on such day as the Lieutenant-Governor might appoint. The Bill was, in fact, only a Chapter of the Bengal Municipalities Bill, which it was more convenient to enact as a separate measure. The Select Committee had omitted sections 4 and 5 of the Bill, which were taken from Chapter 5 of the Act of 1876, and were framed in view of a state of things under which it was contemplated that the entire cost of the Municipal Police should be defrayed from Municipal Funds. Under those circumstances, those provisions were quite proper for the protection of municipal interests, but the Select Committee thought it needless to reproduce them in a measure so limited in its extent as the present Bill. Under the existing law the share of expense to be defrayed by the Municipality could not exceed 5 per cent. on the annual value of holdings within the Municipality. They had reduced that to 2 per cent., as 5 per cent. had been found quite sufficient to cover the entire cost: 2 per cent. was considered sufficient to cover the limited cost.

The motion was put and agreed to.

The Hon. Mr. Reynolds then moved that the clauses of the Bill be considered in the form recommended by the Select Committee. He said there were no amendments on the paper, and he would not propose to ask the Council to

pass the Bill that day. If the motion was accepted, it would be convenient that the Bill should be passed at the same time as the general Municipal Act.

The motion was agreed to, and the clauses of the Bill were passed without amendment.

CALCUTTA TRAMWAYS.

COL. the HON. S. T. TREVOR moved that the Bill to amend the Calcutta Tramways Act, 1880, be read in Council. He said he need not take up the time of the Council by describing the provisions of the Bill at any length. It consisted of only five sections, and the purpose of it would be evident from the statement of objects and reasons. The Bill gave a definition of Calcutta so as to make it include all places within the local limits of the Ordinary Original Civil Jurisdiction of the High Court, and that meant that Calcutta for the purposes of the Tramways Act included the *maidan* and Fort William in addition to the town as defined in the Calcutta Municipal Consolidation Act, 1876; and it provided by section 3 that all tramways constructed in Calcutta, but situate beyond the local limits of the town, that is, in fact all tramways on the maidan, should be subject to the general management and control of the Local Government, and not that of the Corporation; and lastly, section 5 gave the Act retrospective effect in respect of such tramways.

The motion was carried, and the Bill referred to a Select Committee consisting of the Hon. Mr. Reynolds, the Hon. Mr. Beverley, and the Mover, with instructions to report thereon in one week.

SUBURBAN WATER-SUPPLY.

The HON. MR. REYNOLDS moved that the Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta be read in Council. He said:—This Bill is introduced in accordance with the leave given by the Council two and a half months ago, on the motion of my Hon. friend Mr. Macaulay. I do not think I need add anything to the sketch which he gave on that occasion of the history of the question of the Suburban water-supply. The matter has been under discussion for about six years, and I am glad to be able to take to-day another step towards its final disposal by the introduction of this Bill. The arrangement contemplated by the Bill is that the supply of water to the Suburbs shall be furnished by the Corporation of Calcutta, but that the Commissioners of the Suburbs shall provide for the distribution of the water within the Municipality. The Calcutta Corporation have, as, I believe, the Council are aware, already taken measures for carrying out their part of the engagement. It was necessary to order a new main from England, and a 42-inch main, which would have given an additional supply of eight million gallons a day, would have been sufficient for the wants of Calcutta. The Corporation, however, have ordered a 48-inch main, which will supply 12,000,000 gallons, and a daily supply of four million gallons will thus be available for the Suburbs.

The Hon. Mr. Reynolds.

The new main is actually on its way, and proceedings for laying it will be commenced as soon as it arrives in this country. In fact, preparations have been made already. We may therefore hope for a speedy termination of the long delays which have impeded the settlement of this question. The point which remains to be determined is the fixing of the conditions of the arrangement by which the Suburbs are to reimburse Calcutta for the extra expense involved in the purchase of a larger main than Calcutta required for its own purposes. The Bill proposes to determine this point by declaring that the cost of the water shall be a charge upon the water-rate, and that any disputes regarding the cost shall be settled by arbitration. The Calcutta Corporation may, I think, reasonably ask for some further security than this. They may fairly demand either that the rate shall not be fixed below some specified amount, or that a certain quantity of water shall be taken and paid for daily, or that any sum by which the water-rate receipts fall short of the amount payable to the Corporation shall be a charge on the general revenues of the Suburban Municipality. It will be for the Select Committee to say whether any of these methods, and, if so, which of them, shall be adopted. As regards the remaining sections of the Bill I have little or nothing to remark, for those sections merely reproduce (with some trifling modifications) the provisions of the Calcutta Municipal Act which relate to the water-supply.

The motion was put and agreed to, and the Bill referred to a Select Committee consisting of the Hon. Mr. Macaulay, Col. the Hon. S. T. Trevor, the Hon. Mr. Beverley, the Hon. Chunder Madhub Ghose, and the Mover.

BENGAL MUNICIPALITIES.

On the motion of the HON. MR. REYNOLDS the further consideration of the clauses of the Bill to amend and consolidate the law relating to Municipalities was proceeded with.

The HON. MR. REYNOLDS explained that since the last meeting of the Council an informal meeting had been held of some members of the late Select Committee, and it was determined that the amendments which formerly stood in the name of the Hon. Mr. Beverley should be moved by MR. REYNOLDS, and these therefore now appeared in his name.

The HON. CHUNDER MADHUB GHOSE said that before he proposed the amendment on section 84, which stood in his name, he should like to be informed whether the Hon. Member in charge of the Bill had any particular facts before him which induced him to place Dacca among the exceptional places in which a higher rate of taxation might be imposed than in other Municipalities. He had been informed since he gave notice of the amendments that the rate on holdings now imposed in Dacca was 8 per cent. At the same time he ought to mention that of late years the sanitary condition of Dacca had greatly improved, and it was a question whether any higher rate than that now imposed should be authorized.

The HON. MR. REYNOLDS replied that from what had been said it might be supposed that the provision to which the Hon. Member referred was now proposed for the first time. The fact was that the levy of a rate up to a maximum of 10 per cent. was legalized by Act II of 1870, was reproduced in Act V of 1876, and was the law at the present moment. In regard to the necessity for retaining the rate, a letter from the Magistrate of Dacca was before the Council, in which he said that there was no reason for making any alteration in the special rate for Dacca, and the Hon. Member himself had said that the levy of an 8 per cent. rate in Dacca had been followed by a very great improvement in the sanitary condition of the town. That surely was a reason for not making any alteration in a provision which had caused such improvement.

The HON. CHUNDER MADHUB GHOSE then withdrew his proposed amendment.

The further consideration of sections 84 and 100 was postponed.

The HON. MR. REYNOLDS moved that section 182 be omitted. It was covered by section 360, and it was not necessary to have two separate sections for the recovery of sums due to the Commissioners.

The motion was put and agreed to.

Section 185 was passed after the insertion, on the motion of the HON. MR. REYNOLDS, of the words "other than compensation payable under section 35" after "compensation" in line 1.

The HON. MR. REYNOLDS moved that sections 186 and 187 be omitted. It seemed to him unnecessary to say what the method of proceeding should be before a Civil Court for compensation, and how damages or compensation awarded should be recovered. Those were matters for the Court to determine under the provisions of the Civil Procedure Code. The sections seemed to be superfluous, and need not be retained.

The motion was put and agreed to.

The HON. CHUNDER MADHUB GHOSE withdrew the motion which stood in his name for the insertion of the words "at a meeting" after "Commissioners" in paragraph 1, line 18, of section 204.

In section 207 the HON. MR. REYNOLDS moved to insert the words "or two hundred and thirty-five" after "two hundred and six" in line 5, and to omit the word "or" in line 4. He explained that section 236 provided that a certain order made by the Magistrate should be deemed to be an order made in the discharge of his duty, and the introduction of these words in section 207 was necessary.

The motion was carried, and the section as amended was agreed to.

In section 214 the HON. MR. REYNOLDS moved to substitute "three years" for "one year" in line 4 of paragraph 2. He said that there seemed no reason why the limitation in this section should be more than in the cognate provision in section 205, which provided a limitation of one year. He merely wished to assimilate the terms of limitation.

The HON. HARBUNS SAHAI said he had given notice of an amendment in section 361 which affected the principle upon which surplus proceeds of sales, &c., should be dealt with. The principle which was involved in that section applied to a certain extent to surpluses proposed to be dealt with under the section now before the Council as well as other sections of the Bill. He had selected as a test amendment a strong case, and he thought it unnecessary to move amendments in regard to the same matter in so many sections of the Bill. He therefore asked the permission of the President to move his amendment on section 361.

HIS HONOR THE PRESIDENT observed that, although some of the sections to which the Hon. Member referred had already been passed, as the general principle was involved in the proposed amendment in section 361, he thought it would be best to consider that amendment first.

The HON. HARBUNS SAHAI said the question of principle was whether the Commissioners would be precluded from restoring these surplus proceeds to the owners, if application for payment was made after the time fixed in the section for crediting the amount to the Municipal Funds.

The HON. MR DAMPIER said he understood the question to be whether the instruction given to the Commissioners to transfer a certain amount to the Municipal Fund after the lapse of a period of three years, if not previously claimed, would have the effect of barring a claim which any claimant had to the money under the general law.

The HON. HARBUNS SAHAI said his question went a little further, namely, whether the Commissioners, without the claimant establishing his right to the money in a Civil Court, would be at liberty to pay the money after it had been credited to the Municipal Fund.

The HON. MR. REYNOLDS said, under the Bill, the money must be kept in deposit for a certain time, after which it would be transferred to the Municipal Fund. It then became the money of the Commissioners, and they could pay it to the claimant or do what they liked with it.

The HON. HARBUNS SAHAI said, if that was the intention, the provision should be made clear. But it had been held that after once being credited to the Municipal Fund the Commissioners were not authorized to pay the money to the claimant. The construction which had been put upon the clause in the existing Act was that it must be claimed and paid within three years, or, if not so claimed, it must be transferred to the Municipal Fund, and payment could not be made thereafter. In his amendment he had adopted the general limitation of twelve years, but it was for the Council to consider what the period of limitation should be. If the sense of the Council should be that there should be no period of limitation, he would be glad to accept that principle. The law as it stood left the whole question in doubt. It did not say whether, when an owner claimed the surplus after three years, he could be

paid the amount. It rather appeared as if the Commissioners had no power to pay the money after three years. The law in the corresponding provisions of other Acts provided no period of limitation within which the owner could claim the surplus proceeds, as in the case of the sale of an estate for arrears of revenue or other public demands when the money was to be paid to the rightful owner without limitation of time. The revenue circular orders were very clear on the point that the Collector was authorized to pay the surplus within the period of three years, but after that time it could only be paid with the sanction of the Board of Revenue. So far as the principle was concerned, the analogy between the two cases was complete. It had, however, been represented in some quarters that the means and resources of the Government were vastly different from those of Municipalities. Although in the case of the Government there might be no inconvenience in paying the money to the rightful owner at any time, it might not be so with all Municipalities, and there ought therefore to be a certain limit of time within which the owner should be obliged to claim the money, and that period, BABU HARBUNS SAHAI thought, should be 12 years. A man should not be allowed to sleep over his claim.

The HON. THE ADVOCATE-GENERAL said that this Council could not interfere with the law of limitation. The operation of this provision of the Bill should therefore be left to the ordinary law of limitation.

The HON. HARBUNS SAHAI then withdrew the amendment of which he had given notice, and moved in lieu thereof that, in section 361, paragraph 3, line 2, the words "shall be credited to the municipal fund and may" be inserted after the words "if any," and the word "shall" in line 2 be omitted, the effect of which would be to make the clause run thus—

"After deducting the amount due to the Commissioners as aforesaid, the surplus sale proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of such Commissioners or in a Court of competent jurisdiction."

The motion was put and agreed to, and the section as amended was passed.

The Secretary was directed to make amendments similar in principle to that involved in the amendment just made in all the other sections of the Bill dealing with the matter of surplus proceeds.

The HON. MR. REYNOLDS then withdrew his amendment on section 214.

Section 219 provided a penalty of fifty rupees for certain offences.

The HON. CHUNDER MADHUB GHOSE did not think the offences provided for in this section were of so serious a nature as to require a penalty of fifty rupees. It was not a sufficient reason to continue the same penalty because it was in the existing law.

The HON. MR. REYNOLDS said he could not agree to the amendment, because it had not been shown that the operation of the law had acted inju-

The Hon. Harbuns Sahai.

riously or harshly. It was not to be supposed that the maximum penalty would always be inflicted; but there were cases in which he thought the maximum penalty would not be too much.

The motion was negatived on the following division:—

AYES 4.	NOES 6.
The Hon. Kumar Boykontonath De.	The Hon. Mr. Beverley.
,, Chunder Madhub Ghose.	Col. the Hon. S. T. Trevor.
,, Harbuns Sahai.	The Hon. Mr. Macaulay.
,, The Advocate-General.	,, Mr. Reynolds
	,, Mr. Dampier.
	,, the President.

The HON. BOYKONTONATH DE moved that in section 234, paragraph 2, line 6, the words "a reasonable time" be substituted for "eight days." Eight days was too short a time to allow for the filling up of excavations: no limit might be fixed, because the time required would depend upon the quantity of the work to be done.

The HON. MR. REYNOLDS said he did not think the amendment would be an improvement. It was necessary to have some specific time provided by law, but the Commissioners were not likely to require the owner to do the work in less than a reasonable time. The only way of enforcing compliance was by way of penalty, and the Magistrate would not inflict a penalty unless a reasonable time had been allowed.

The HON. MR. DAMPIER pointed out that the limitation was by way of minimum only, and, as he had been repeatedly told, confidence must be placed in the discretion of the Commissioners.

After some conversation, the amendment was altered on the motion of the HON. CHUNDER MADHUB GHOSE to the substitution of "two weeks" for one week.

The amendment was carried after the following division, and the section as amendod was agreed to:—

AYES 6.	NOES 4.
The Hon. Kumar Boykontonath De.	The Hon. Mr. Beverley.
,, Chunder Madhub Ghose.	,, Mr. Macaulay.
,, Harbuns Sahai.	,, Mr. Reynolds.
Col. the Hon. S. T. Trevor.	,, Mr. Dampier.
The Hon. the Advocate-General.	
,, the President.	

On the motion of the HON. MR. REYNOLDS, section 236 was omitted.

Sections 237 and 238 were agreed to.

The HON. KUMAR BOYKONTONATH DE withdrew his proposed amendment on section 239, and the section as it stood in the Bill was then agreed to.

The Hon. Mr. Reynolds moved that the following sections be substituted for sections 240 to 244:—

240. "Before beginning to build or rebuild any house not being a hut, the person intending to build or rebuild any such house shall give notice thereof in writing to the Commissioners, and shall accompany such notice with a general description of the building which he intends to erect, and of the provision which he intends to make in respect of drainage and latrine accommodation.

241. "Within fourteen days after the receipt of the notice mentioned in the last preceding section, the Commissioners may refuse to sanction the building of the house, unless it be shown to their satisfaction that proper provision is or can be made for drainage and latrine accommodation within the holding or in the neighbourhood thereof.

242. "The Commissioners may also, if they see fit, within fourteen days after the receipt of the notice mentioned in section 240, require the person giving such notice to submit to them a plan showing the width of the foundation walls and the level of the lowest floor of such house by reference to some level ascertained under the direction of the Commissioners, and the Commissioners may direct that such house shall not be begun to be built without their sanction.

243. "Within fourteen days after receiving the plan mentioned in the last preceding section, the Commissioners shall either signify their approval of the proposed levels and width of the foundation walls, or shall fix other levels and width of foundation walls in lieu thereof. If within fourteen days after receiving the plan as aforesaid, the Commissioners fail to signify their approval or disapproval of the levels and width of foundation walls shown in such plan, or to fix other levels and width of foundation walls, the person giving notice may, unless sanction has been refused under section 241, proceed to build or rebuild the house in accordance with the levels and width of foundation walls shown in the plan:

"Provided that the house be otherwise built or rebuilt in accordance with the provisions of this Act.

244. "If any house is built, or begun to be built, without notice as required by section 240; or if such house is built, or begun to be built, after refusal of and without sanction under section 241;

or if, when a plan has been required under section 242, the house is built, or begun to be built, before such plan has been approved, or before the expiration of fourteen days after the submission of such plan;

or if, after the Commissioners have directed that the house be not begun to be built without their sanction, the said house is built, or begun to be built, without such sanction;

or, if when levels and width of foundation walls have been fixed by the Commissioners, the house is built, or begun to be built, in accordance with levels and foundation walls other than those fixed;

or, if the house is built, or begun to be built, in any other respect contrary to the provisions of this Act,

the Commissioners may cause such house to be altered or demolished as they shall see fit."

He explained that the only new point involved in the amendment was section 241, which authorized refusal to the building of a house unless proper provision was made for drainage. In the same way section 245 of the Bill was introduced on the recommendation of the Deputy Commissioner of Darjeeling, who urged the necessity of giving the Commissioners power to prohibit the occupation of any new house until the drainage of the house was inspected and certified to be in a proper state. No doubt these sections

The Hon. Mr. Reynolds.

would give extensive powers to the Commissioners, but they would only be extended on the special application of the Municipal Commissioners, and there would not be many Municipalities in which the Commissioners would desire to exercise these powers. There were, however, certain Municipalities in which the introduction of such provisions was necessary and desirable.

The sections were agreed to.

Sections 245 to 251 were agreed to.

The Hon. Mr. Reynolds moved the omission of sections 252 to 254. These sections were a part of the existing law, but they had never been put in force, and would never be put in force in their present form. This part of the Act dealt with sanitary measures for the reclamation of bustees, and then provided that, if the Commissioners failed to act, the Local Government might take certain proceedings in relation thereto. He supposed it was certain that no body of Commissioners would ask for the extension of these provisions, and he therefore proposed to omit sections 252 to 254 as useless; and it seemed to him that the powers reserved to the Government under sections 63 and 64 were so very full and complete, and gave such complete power to the Government to deal with any negligence or default on the part of the Municipality, that it was unnecessary to retain these sections.

The motion was put and agreed to.

The Hon. Boykantonath De moved that section 258 be omitted. He said that this section placed a restriction on the sale of European drugs and medicines, which would interfere with the medical requirements of the people, particularly in the malarious districts where quinine and patented febrifuges were sold not only in miscellaneous shops, but also in the common markets. It was true that there was a qualified provision on this subject in the existing law, but, as far as he was aware, it had remained a dead-letter.

The Hon. Mr. Reynolds said he did not attach much value to this section, but it was in the power of any Municipality to have its provisions extended or not as they deemed fit. It was part of the law in Calcutta, and though not at present introduced in the Mofussil, there was no doubt that in the Suburbs, and probably in Dacca, the section would be useful. The provisions of the section were safeguarded by the proviso that it should not apply to the sale of drugs used by practitioners of indigenous medicines, whether these were recognized by the British Pharmacopœia or not, when such drugs were not sold in a shop or place where medicines recognized in such Pharmacopœia were dispensed upon prescription. That would exclude the operation of the section from many Municipalities. He should wish to leave it to the discretion of the Commissioners to extend this provision or not: he thought it undesirable to strike it out altogether.

The motion was put and negatived, and the section as it stood in the Bill was then passed.

Sections 259 to 263 were agreed to.

The Hon. Mr. Reynolds moved that the following section be substituted for section 264. The amendment was mainly of a verbal character, but the object was to omit the words "or otherwise disposed of," which was a kind of suggestion that some other means might be adopted under circumstances under which burning or burial would be the proper means of disposing of a body:—

"After the expiration of not less than twenty-four hours from the death of any person, the Commissioners may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased."

The motion was put and agreed to.

Sections 265 and 266 were agreed to.

Section 267, which provided for the grant of licenses for certain offensive and dangerous trades, was passed, with the insertion of the words "and the renewal thereof" after "such license" in the last paragraph.

Section 268 was agreed to.

Section 269 was passed, with the substitution of the following for paragraph 2, which omitted to provide the amount of fee to be charged to milkmen, &c.:—

"The Commissioners may license places for such purpose, and may levy a fee not exceeding one rupee on the issue and renewal of any such license. Such license shall be renewed in the first and seventh months of each year."

Sections 270 to 278 were agreed to.

The Hon. Mr. Reynolds moved that the following be substituted for section 279: the amendment was merely proposed in the direction of abbreviation and simplicity:—

"Whoever, in a Municipality—

(1) begins to build, or to take down, or alter or repair, any house contrary to the provisions of sections two hundred and thirty-eight or two hundred and forty-four, or lets a house for occupation contrary to the provisions of section two hundred and forty-five; or, without written permission, erects or sets up any hoard, scaffolding or fence whatsoever; or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition; or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night; or who does not remove the same within eight days, when directed by the Commissioners; or

Offence under sections 238, 244, 245.

(2) without a license uses any place for any of the purposes specified in section two hundred and sixty-seven or section two hundred and sixty-nine; or

Offence under sections 267, 269.

(3) being a holder of a license under section two hundred and sixty-seven or section two hundred and sixty-nine, breaks any condition of such license; or

Offence under sections 267, 269.

(4) after the issue of an order under section two hundred and seventy, keeps horses or cattle exceeding ten in number in contravention of such order; or

Offence under section 270.

The Hon. Mr. Reynolds.

Offence under section 271.

(5) keeps any pig-sty, pigs, sheep or goats contrary to the provisions of section two hundred and seventy-one,

shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for every day during which the offence is continued after he has been convicted of such offence."

The motion was put and agreed to.

On the motion of the HON. MR. REYNOLDS, section 280 was omitted.

Section 281 was agreed to.

The HON. KUMAR BOYKANTONATH DE withdrew his proposed motion to omit section 282, which was then agreed to.

Sections 283 to 285 were agreed to.

The HON. MR. REYNOLDS moved that the following new sections be introduced before section 286 at the beginning of Part VII under the head of "Water-supply." They were practically in accordance with the Calcutta Act, with certain modifications to adapt them to the circumstances of Mofussil Municipalities:—

Imposition of water-rate.

285A. "In any Municipality to which the provisions of this Part shall be extended in the manner prescribed by section 224, it shall be lawful for the Commissioners to impose an annual water-rate not exceeding six per cent. on the annual value of holdings, when the houses and lands are situated in streets supplied with water, and not exceeding five per cent. when the houses and lands are situated in streets not so supplied.

The said water-rate shall be paid by the occupiers of the holdings by quarterly instalments in advance.

Valuation, assessment, and collection of water-rate.

285B. "The annual value of holdings shall be the value determined by the Commissioners for the imposition of the rate on holdings under the provisions of Part IV of this Act, or if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 95 to 108 (both inclusive) and 110 to 129 (both inclusive) shall *mutatis mutandis*, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the water-rate.

Occupier paying water-rate may deduct one-fourth from rent due to owner.

285C. "Whenever the person by whom the water-rate shall have been paid, or from whom the said rate shall have been recovered, is not the owner of the house or land in respect of which the water-rate shall have been assessed, such person may recover from the owner one-fourth of the water-rate so paid or recovered, and may deduct the same from the rent payable by him to such owner.

When house is unoccupied, owner to pay one-fourth of water-rate.

285D. "Whenever any house or land has been unoccupied during an entire quarter, the owner of the said house or land shall pay to the Commissioners one-fourth of the sum which would have been payable as water-rate by the occupier if such house or land had been occupied.

The sum payable by the owner under this section shall be deemed to be due on the first day of the quarter following that in respect of which the said sum is payable.

Refund of water-rate when house ceases to be occupied.

285E. "Whenever any quarterly instalment of the water-rate shall have been paid in respect of any house or land, and such house or land shall during the quarter for which such instalment shall have been paid, cease to be occupied, the person who shall have

paid such water-rate shall be entitled to be repaid by the Commissioners three-fourths of such sum as shall bear to the amount paid by him, the same proportion which the residue of the quarter bears to the entire quarter.

Provided that notice shall have been given in writing to the Commissioners of such house or land being unoccupied, and that the application for refund be made within six months next after the date on which the house or land ceased to be occupied.

The date on which the said notice is delivered at the office of the Commissioners shall, for the purposes of this section, be deemed to be the date on which the house or land ceased to be occupied.

Rate payable on house being re-occupied.

285F. "Whenever any house or land which shall have been unoccupied shall begin to be occupied during any quarter, there shall be forthwith payable by the occupier in respect of such house or land a sum calculated at one-fourth of the rate that would have been payable if the house or land had been occupied during the entire quarter for the period during which the house or land was not occupied, and the full rate for the residue of the quarter.

And such occupier shall be entitled to deduct from the rent, or otherwise recover from the owner, one-fourth of the water-rate that would have been payable if the house or land had been occupied during the entire quarter.

Person sub-letting to several different tenants to be deemed occupier.

285G. "Whenever any person holding any house or land from the owner thereof has sub-let the same in severalty to two or more persons, the person holding from the owner shall, for the purposes of this Part, be deemed to be the occupier of such house or land.

Owner to pay water-rate in certain other cases.

285H. "The provisions of sections 312, 313 and 314 shall be applicable to this Part, provided that the owner shall not be entitled to recover from any occupying tenant more than three-fourths of the water-rate that would, but for this proviso, be recoverable by him under the said sections."

The sections were agreed to.

Sections 286 to 308 were agreed to.

The Hon. Mr. Reynolds moved the omission of the second clause of section 309, which provided that arable lands, places of public worship, &c., should be exempt from the lighting-rate. He said there was a general exemption clause in section 97 relating to the house-rate, and there seemed no reason for having a different procedure for the lighting and the water-rate.

The motion was agreed to, and the section as amended was passed.

The Hon. Mr. Reynolds moved that the following be substituted for section 310. It was a mere reproduction of section 285B, which the Council had already passed:—

Valuation, assessment and collection of lighting-rate.

310. "The annual value of holdings shall be the value determined by the Commissioners for the imposition of the rate on holdings under the provisions of Part IV of this Act, or if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 95 to 108 (both inclusive) and 110 to 129 (both inclusive) shall *mutatis mutandis*, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the lighting-rate."

The motion was put and agreed to.

The Hon. Mr. Reynolds.

The HON. MR. REYNOLDS moved that section 311 be omitted. It contemplated circumstances under which provision should be made for lighting in places in which there was no rate on holdings, but merely an assessment on persons. It appeared on consideration that it was not desirable to introduce this section. It seemed unlikely that this Part of the Bill would ever be extended to places in which the tax on holdings was not in force; and if it was so extended, it seemed proper that the valuation on holdings for the assessment of the lighting rate should be made as it was for the water-rate, even though there was no valuation on holdings for general purposes.

The motion was put and agreed to.

Sections 312 to 330 were agreed to.

Section 331 was passed with verbal amendments.

Sections 332 to 360 were agreed to.

Section 361 was passed at an earlier stage of the meeting, where the proceedings in connection with that section are recorded.

Sections 362 to 364 were agreed to.

The HON. MR. REYNOLDS moved that the following be substituted for section 365. He said that in revising this section it was thought desirable to adopt the language of the Criminal Procedure Code, so that there might be no possibility of any conflict with the provisions of the Code:—

"All police officers shall give immediate information to the Commissioners of the Municipality of any offence committed against this Act.

Police Officer to report offences and arrest persons refusing to give name and residence.

"When any person, in the presence of a police officer, commits, or is accused of committing, any such offence, and refuses, on demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required."

The motion was put and agreed to.

Sections 366 and 367 were agreed to.

The HON. MR. REYNOLDS moved that the names of the following Municipalities be omitted from Schedule I:—

"Chunderkona, Ramjeebanpore, Kotechandpore, Kandi, Purulia, and Kishoregunge."

The motion was put and agreed to, and Schedule I, as amended, was then passed.

The HON. MR. REYNOLDS moved that the names of the following Municipalities be omitted from Schedule II:—

"Bishenpore, Ghattal, North Barrackpore, North Dum-Dum, South Dum-Dum, Meherpore, Nuddea, Coomercolly, Jessore, Madaripore, Kishoregunge, and Brahmanberiah."

The Hon. Mr. Dampier said he understood from the silence of the Secretary to the Government of Bengal in the Municipal Department, that there was no objection on the part of the Local Government to the omission of these names from Schedule II. On that ground, and on the ground that anything he might say would not have the slightest effect, the Council having made up its mind as to the principle of these Schedules, he gave his assent to these amendments; but he must say that somebody (he was not quite sure who it was) had very seriously altered his mind as to which should be, and which should not be, the Municipalities to which the right of electing their own Chairman should be given, since the Schedules were first laid before the Council.

The Hon. Mr. Macaulay said he did not think he was called upon to make any answer to the Hon. Member with reference to his position as Secretary in the Municipal Department; but as a Member of the Select Committee the Hon. Member must know that the preparation of the Schedule was, after general discussion, left to the President of the Select Committee, and that the other day, at a meeting of the Committee, Mr. Macaulay had given good reasons for removing these names from the Schedule. He had acted merely on information in the hands of every Member of the Council. To take Bishenpore, the Municipality immediately before them, his reason for proposing its omission was the simple one that the people had submitted a petition asking for leave to elect their own Commissioners and their own Chairman. He would be prepared to give his reasons in regard to each of the other Municipalities, as they came up, should the Hon. gentleman desire it. But the papers were all before the Council.

The motion was put and agreed to.

The Hon. Boykantonath De moved that the names of the following Municipalities be omitted from Schedule II:—

"Suburbs of Calcutta, Patna, Gya, Santipore, and Utterpara."

He did not see any valid reason why the Municipalities of such highly advanced places should be deprived of the right of electing their own Chairman. If these towns were not considered qualified to elect their own Chairman, then very few places in Bengal could be presumed to fulfil the conditions which would justify the Government in giving them this privilege. He would ask that the names of these Municipalities be voted upon *seriatim*. His first motion was to omit the "Suburbs of Calcutta."

The Hon. Mr. Reynolds said he could not agree to the omission of the Suburbs of Calcutta from Schedule II. It was one of those places in which it seemed very desirable that the power of appointing the Chairman should remain in the hands of the Government. It was a Municipality the work of which was very great, and in which there was really very much the same reason that the Government should appoint the Chairman as there was in Calcutta: it was in reality a part of Calcutta. The work would not be likely to be undertaken

by an Honorary Chairman who would be able to devote sufficient time to it, and it was one of those Municipalities in which an official was very desirable at present. The time might come when both Calcutta and the Suburbs might have elected Chairmen, but he would be unwilling to say that the Suburbs at present should be excluded from Schedule II.

The motion was put and negatived.

The HON. BOYKANTONATH DE moved that Patna be left out of Schedule II.

The HON. MR. REYNOLDS said that Patna was a very large city, in which the municipal work was particularly heavy, and a non official could not be got to do the duties efficiently. It was a place which had expressed a wish for election, and that wish had been complied with. The circumstances of Patna were not such as would justify its omission from the Schedule.

The HON. MR. DAMPIER said that he had throughout advocated that those matters should be left to the discretion of the Government. He thought the responsibility ought to rest, in these doubtful cases, with the Local Government. Notwithstanding the distinction drawn by his Hon. friend opposite (Mr. Macaulay) between his position as Secretary to Government and his position as a Member of this Council, it was impossible to deny that the Government was actually represented in this Council, and had an opportunity of making its views known. MR. DAMPIER understood, then, that the Government agreed with the Hon. Member in charge of the Bill as to these amendments: therefore, acting strictly in accordance with the principle which he had adopted all through the discussion of this question, he would vote that the amendment be rejected as not being in accordance with the judgment of the Government.

The motion was then put and negatived.

The HON. KUMAR BYKONTONATH DE moved that Gya be omitted from Schedule II.

The HON. MR. REYNOLDS said that Gya was in some respects a backward town, and it was a place in which the difficulties caused by the number of pilgrims who resorted to it made it desirable that the Magistrate should be the Chairman of the Municipality. On these grounds he thought that it was not desirable to allow the Commissioners to elect their own Chairman, and he was not prepared to accept the amendment.

The motion was put and negatived.

The HON. BOYKANTONATH DE moved that Santipore be omitted from Schedule II.

The HON MR. REYNOLDS said he did not agree to the proposal. The case as regards Santipore differed from that of the Municipalities which had been previously referred to. The main objection in the cases of the Suburbs and Patna

was the onerousness of the work. In Santipore the objection was the party spirit existing in the town. He thought the condition of Santipore was certainly such that it would be in the interests of the town that the power of electing the Chairman should be left to the Government.

The motion was put and negatived.

The HON. BOYKANTONATH DE moved that Utterpara be omitted from Schedule II.

The HON. MR. REYNOLDS said the case of Utterpara was the same as Santipore. It was a case in which the feelings of the different parties were strong, and therefore it was not desirable to give that town the power of electing its own Chairman.

The motion was put and negatived.

Schedule II, as amended, was then passed.

The HON. CHUNDER MADHUB GHOSE referred to an amendment which stood in his name for the introduction of a new Schedule (IIA). He said that the Schedule referred to section 15 of the Bill regarding the qualification for voting.

The HON. MR. MACAULAY rose to order. He would be very sorry to throw obstacles of a technical character in the way of the Hon. Member, but his recollection was that section 15 of the Bill had already been passed, and that this amendment, which was simply an appendage to section 15, was withdrawn. He then explained that if the Hon. Member had the figures before him in the case of Serampore, he would probably not have brought forward this amendment. The raising of the qualification in Serampore had made the elective system useless, and on that explanation the Hon. Harbuns Sahai, who was at the time in charge of the Hon. Member's amendments, withdrew the amendment in respect to section 15, and with it this Schedule.

The HON. CHUNDER MADHUB GHOSE said the facts which had been stated to the Council might be correct; but he certainly thought that, as regards the Suburbs and Howrah, the proposed raising of the rate would commend itself to the consideration of the Council. He could only express his regret that an amendment, which so seriously affected those important Municipalities, should have been withdrawn in his absence.

HIS HONOR THE PRESIDENT said, as there were still certain sections of the Bill which remained for consideration, he proposed to give the Hon. Member an opportunity of stating at the next meeting of the Council his views on his proposed Schedule IIA in connection with section 15.

The Council was adjourned to Saturday, the 8th March.

The Hon. Boykantonath De.

Saturday, the 8th March 1884.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President.*
The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel The HON. S. T. TREVOR, R.E.
The HON. H. BEVERLEY.
The HON. HARBANS SAHAI.
The HON. CHUNDER MADHUB GHOSE.
The HON. KUMAR BOYKONTONATH DE.

New Member.

The HON. A. B. MILLER, took his seat in Council.

CALCUTTA TRAMWAYS.

Colonel the HON. S. T. TREVOR presented the report of the Select Committee on the Bill to amend the Calcutta Tramways Act, 1880. He said that the only alteration which the Committee had made was, to amend the definition of "Calcutta" so as to exclude Fort William from the provisions of the Bill. With that amendment the Committee recommended that the Bill be passed.

SUBURBAN WATER-SUPPLY.

The HON. MR. REYNOLDS moved that the Hon. Mr. Miller be added to the Select Committee on the Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta.

The motion was put and agreed to.

BENGAL MUNICIPALITIES.

On the motion of the Hon Mr. Reynolds the Council proceeded to the further consideration of the Bill to amend and consolidate the law relating to Municipalities.

The HON. the ADVOCATE-GENERAL moved that the following proviso be added at the end of clause 3 of section 6:—

"Provided that where a number of adjoining holdings has been amalgamated for the purposes of habitation, trade, or business, such holdings shall be deemed one holding." Also that the words "or company" be inserted after "family" in the last line of clause 3, and that "or" be omitted after "firm" in the same line.

He said he thought it necessary to introduce this amendment in the Act, and he begged shortly to state his reasons. Hon. Members were aware that

the definition of the word "holding" had given a great deal of trouble under former Acts. As defined in various Acts it meant anything that the Magistrate considered a holding. According to that definition a case arose where property which formed one set of premises was subdivided, and assessments were levied on each separate building, and the person who suffered from over-assessment had no remedy in law, because the Act defined a holding to be that which the Magistrate should consider to be a holding. In one miserable case of that sort the Local Government considered the view of the law taken by the Magistrate very capricious, and insisted on a revision of the assessment, and since that occurrence it had been desired to find a better interpretation of the word "holding." He should have thought a holding was a thing sufficiently specific without any definition; but in order to obviate any difficulty in the construction of the meaning of the word, he thought it necessary to propose this amendment. He had been considering this matter, and considering it very seriously. The definition in the Bill so far as it related to small holdings was fair enough, but when there was one set of premises composed of a number of holdings, the definition was capable of being worked unfairly. Section 6, clause 3, said that "holding" meant land held under one title or agreement and surrounded by one boundary, and occupied by one person, firm, or family. Here, although he had not put the amendment on paper, he would suggest the addition of the words "or company." A company was not a firm in the ordinary acceptation of the word, and he supposed the Council would have no objection to add the words "or company." To come to the particular reason which induced him to put this amendment on the paper, if the Council would refer to section 100 they would find that the gross annual rent at which any holding might be reasonably expected to be let should be deemed to be the annual value thereof, and such value should accordingly be determined by the Commissioners, and entered in the valuation list. That was one method of assessment. Suppose a manufactory had a certain kind of land, and for the purpose of having stables or a smoking place for sircars or any other minor purpose, a piece of land was taken up abutting on two sides on public roads, so as to be in a very advantageous position, then, although the whole may be held to constitute one holding, the title to the lands would be by separate documents, and the manufacturer would be liable to be assessed as for separate holdings. The result would be that, although only a small parcel of land in an advantageous position would be thrown into the premises, it would not be assessed as a part of the whole, but separately. That instance might be multiplied by half a dozen instances, and the proprietor would have to pay separately for every piece of land he purchased for the purpose of constituting one set of premises for the manufactory. Furthermore, if the amendment in section 100, which stood in the name of the Hon. Mr. Dampier, was adopted, the amendment now proposed of the definition of holding would be necessary, because under the second part of that amendment there would be a limit imposed after the assessment amounted to Rs. 1,00,000. Suppose one manufactory consisted of four holdings; each of

The Hon. the Advocate-General.

them might be assessed at Rs. 1,00,000 ; and yet all the four parcels of land might constitute one set of premises, and for the purposes of assessment the whole of them should be taken as one holding. The definition in the Bill was open to this difficulty also.—"Title" did not mean the purpose for which the land was held ; it was the interest which a person had in the land of which he was the occupying proprietor, and the title was that which was discovered in the papers relating to the land. In order to ascertain how a person acquired a certain land, the title deeds had to be looked into to ascertain his title. Suppose A. purchased a piece of land on 1st January 1880, another on 1st January 1882, another in 1883, and another in 1884 ; he would hold those four parcels of land by four different conveyances and four different titles. It would not make any difference that he held two of them as Zemindar and two as putneedar or izardar. It would not be the title by which land was held which constituted the liability to municipal assessment as a separate holding ; for if A. sold the four parcels of land to B. in one title, then B. would only be liable to rating as for one holding. That necessarily left the matter in great difficulty, and therefore the Advocate-General proposed his definition of holding under which, if the four parcels of land were amalgamated for the purpose of business or trade, they became within the meaning of the law one holding. Under these circumstances he proposed his amendment, which he thought would make the matter clearer and remove some difficulties.

The Hon. Mr. Reynolds said he was very reluctant to oppose the amendment, but he was not quite sure whether the Hon. and learned Advocate-General had considered the whole effect which the amendment would have. The definition which was proposed by the Select Committee had, as the Advocate-General had said, been very carefully considered, and it was the best definition which they could make, although it might perhaps be just as well to have no definition at all. However, it was the best that could be devised, and he had since observed that the definition of "holding" very nearly agreed with that proposed in the Bengal Rent Bill, in which a holding was defined as "a parcel of land held under one lease or one set of conditions." If the Hon. and learned Advocate-General thought that in lieu of the words "one title or agreement" the words "one lease" or "one set of conditions" would be a more correct expression, Mr. Reynolds would not object on that point, but he thought some difficulty might be created by providing that where a number of holdings had been amalgamated for purposes of habitation, trade, or business, such holdings should be deemed one holding. He did not really quite know what was meant by a number of holdings being amalgamated for purposes of habitation, &c., whereas the definition in the Bill seemed to him specific and clear by providing that the land must be surrounded by one boundary and occupied by one person, firm or family. If there were two pieces of land used by the same firm or company, which were not contiguous, but were within separate boundaries, he was not sure that the Hon. and learned Advocate-General considered that they should be treated as having been

amalgamated. [The Advocate-General—"One boundary in the definition would not be a physical boundary; but one boundary as specified in the document."] Then the Hon. and learned Advocate-General had referred to section 100, but the provision which was of general application was clause (*a*) of section 84, which referred to those Municipalities in which a tax on persons was raised, and that was the case in the majority of Municipalities. That section provided that the amount of assessment in respect of any one holding should not be more than Rs. 84 per annum. In the case of the Baranagore Jute Mills there were sixteen holdings, and they paid an assessment of Rs. 84 on each holding, and it was perhaps not too much for such a company to pay; but under the definition in the Bill he thought if those sixteen holdings were surrounded by one boundary they would very properly be considered one holding; but where two holdings were really separated, although they were occupied by the same firm, he thought it quite just that each of those holdings should be separately assessed.

The Hon. Mr. Dampier said Hon. Members must bear in mind that the amendment now before the Council was intimately bound up with what the Council might do afterwards in regard to certain other points which he hoped would be left for decision at another meeting, although the question might be ventilated and discussed to-day. As a fact, until the amendment which stood in his name, or some amendment equivalent to it, was adopted, the remarks of the Hon. and learned Advocate-General had absolutely no bearing in the case of any Municipality in which a valuation rate on property was in force, because, as the Bill now stood before the Council, it put no maximum on the amount whcih might be levied from any one holding, short of the total amount arrived at by calculating the rate percentage on the valuation of the property. As long as no maximum was imposed, it was obvious that the total amount assessed would be the same whether a piece of land on which buildings stood were treated as one holding or as several for purposes of assessment.

The Hon. the Advocate-General said his amendment had two or three bearings, and it would have special force if the graduated system was adopted. With regard to the first portion of section 100, the statements which he had made had not been understood. Take the case of a garden. Suppose a man had a house and garden with two bigahs of land held under one title. Afterwards he increased the area by adding another bigah of land, and he made his garden a garden of three bigahs instead of two. According to the present definition he would be assessed on two different holdings, and the assessment on the additional bigah might be made very high assessing it separately, whereas if assessed as a part of his whole garden, the assessment might fall short of such assessment. The Hon. Member in charge of the Bill said that one holding might include many buildings. That was the very object of the Advocate-General's amendment. If the definition of "holding" as given in the Bill, included many buildings, then no possible objection could be taken to the rider proposed to be added to it; the object of the amendment was simply

The Hon. Mr. Reynolds.

to make the definition clear. But the Advocate-General did not think the definition in the Bill meant what was supposed by the Hon. Member, as that definition said a "holding" meant lands held under one title and surrounded by one boundary. But suppose a holding had ten titles and one boundary. One boundary was hardly a correct mode of expression: one set of boundaries would be clearer. According to the definition a case could not be conceived of two buildings held under two different titles and surrounded by a brick wall coming under it, because they would not be held under one title.

The HON. MR. DAMPIER said he had already stated that the remarks of the Hon. and learned Advocate-General would not apply to rating, unless a maximum to the amount payable by one holding were imposed. The amendment in MR. DAMPIER'S name did not profess to impose any maximum in respect of assessments on land, but only in respect of buildings which stood on the land. Now, there being no maximum in regard to the assessment on land, the Hon. the Advocate-General's amendment would not make any difference in the total amount to be assessed on a given piece of land, whether it was all held under one title or interest, or whether it was held under several distinct titles. Even the maximum to which MR. DAMPIER'S amendment was directed would not touch the assessment on land. But when it came to the buildings which stood on the land, no doubt it became an important question whether the maximum to which his amendment was directed should be applied to the premises which were used for a particular business as a whole, or whether that maximum was to be applied separately to buildings which stood on each plot of land held on a different title or interest.

HIS HONOR THE PRESIDENT concluded from what had transpired that the sense of the Council was that the consideration of the Hon. and learned Advocate-General's amendment should be reserved until the proposal to amend section 100 had been considered and determined.

The further consideration of the motion was postponed.

The HON. CHUNDER MADHUB GHOSE withdrew the amendment of which notice had been given that, in the proviso to section 15, line 1, the words "not being a Municipal Officer" be inserted after "male person."

The HON. CHUNDER MADHUB GHOSE moved that in clauses (1) and (2) of the Proviso to section 15 the words "except in the Municipalities mentioned in Schedule 2 A, where it should not be less than four rupees," be inserted after the words "one rupee eight annas." The Council would observe that this Bill made no distinction between the qualification of a voter, and the qualification of a candidate for election as Commissioner; the same qualifications applied to both, and with regard to both these classes, the standard of qualification, so far as property qualification was concerned, was the payment of an annual rate of Rs. 1-8. He was not aware until that morning, when he found it amongst the papers sent to him on the previous evening, that a petition had been received

from the Suburban Rate-payers' Association, one paragraph of which mentioned as a matter of fact that the lowest rate paid for house-service in the Suburbs was Rs. 1-8 per annum. The petitioners said—

"The total number of holdings recorded in the register of the Municipality is about 44,000. Out of this number, those of which the annual valuation does not exceed Rs. 3, are not subject to assessment in any way; and as regards the rest, the house-rate is levied nearly upon 35,000 and the house-service cess upon 32,000. The difference between these two figures is owing to the fact that the cess is levied within certain prescribed limits, while at the same time the rate is not imposed upon holdings whose annual valuation falls short of Rs. 12. In other words while among the holdings exempted from the operation of the House-service Act there are some that pay the house-rate, there are others among the holdings not so exempted which are not required to pay it. But the difference is so small that for all practical purposes your Memorialists may safely assume that every holding which pays the one is also required to pay the other. And none of these holdings pays less than Rs. 2-6 a year, for the minimum rate and cess levied in this Municipality are 14 annas and one rupee eight annas, respectively. Thus the Hon. Council will at once perceive that under the rule in question the franchise will practically attach to every assessable holding within the Suburbs; and your Memorialists will leave it to them to consider whether it will be safe or prudent to convert all at once a system of pure and wholesale nomination into one of universal household suffrage."

He presumed the petitioners meant to say that the lowest amount of the house-service tax was Rs. 1-8 a year; and if that figure was correct, and if the word "rates" in section 15 of the Bill were taken to comprehend house-service rates, then the figures they had given were conclusive on the question he had laid before the Council; for, according to that section, any person who had paid during the year in respect of any of the rates imposed by the Act an aggregate amount of not less than Rs. 1-8 would be eligible both for election as a Commissioner and to vote for the election of Commissioners; so that practically, as shewn by the petitioners, it would confer universal household suffrage, and that, in the judgment of Babu Chunder Madhub Ghose, would not be desirable. It would permit a very large class of people to vote for election as also to stand for election as Commissioners, and he had no doubt that election agents and other persons canvassing for votes would impose on these ignorant people to make returns in favour of particular individuals, which would be certainly objectionable, and wholly prejudicial to the interest and well-being of Municipalities. His motion therefore, in the first place, was to make the qualification in the Suburbs Rs. 4 per annum. He would also ask leave to put an alternative amendment, if that was not agreed to, namely that Rs. 4 be laid down as the qualification for election as a Commissioner, for he thought there ought to be a distinction between the qualification for voting and the qualification for election as a Commissioner. In Calcutta the one was fixed at Rs. 25 and the other at Rs. 50, and he thought that was a wholesome distinction. He would bring forward the motion as regards the other Municipalities mentioned in his Schedule afterwards.

The Hon. Mr. Macaulay said he thought it was not desirable to consider this question with reference to the qualification for voting in particular Municipalities. The amendment if adopted might be successful in the Suburbs, but

The Hon. Chunder Madhub Ghose.

it would involve the necessity of adopting other standards of qualification in other Municipalities. If in a matter of this kind unanimity could be obtained, he considered it ought to be secured, because the Council had not before them the figures necessary to shew the incidence of taxation in respect of the substantive proposal before the Council. They had, however, the figures for the Municipality of Patna, and they shewed that the result of introducing a higher standard of qualification in that town would probably be unsatisfactory. The total number of rate-payers there was 28,963, the number who paid rates respectively to the amount of Rs. 4 and upwards per mensem, being 2,197; Rs. 3 and upwards 3,068; and Rs. 2 and upwards 5,047. For Dacca, he found from the statement of the Magistrate that there would be only 1,600 and odd persons paying Rs. 6 a year. But however that might be, the figures to which MR. MACAULAY had referred on a different occasion of the effect of precisely the same rate as was now proposed on the operation of the elective system at Serampore ought to be conclusive of the exclusion of that Municipality as well as Barrackpore from the higher rate of qualification. It was found that when there was no limitation of qualification in Serampore the number of voters was about 7,000, and the Sub-Divisional Officer described the result to be a success; but in 1880 Mr. Carstairs proposed to raise the qualification to Rs. 4, and the result was that the number of electors fell to about 600, and the elective system simply became a farce. It was extremely unpopular, and the people, in order to shew their sense of the unpopularity of the change, declined to vote for any candidate. Mr. Macaulay did not think the Council ought to revert to a state of things which had been tried and had failed at Serampore. Now, as regarded a household franchise, Mr. John Beames, Commissioner of the Burdwan Division, had reported that in his judgment the reason of the success of the elective system in Burdwan was that there was no limitation on voting beyond that the franchise was confined to male persons. At the same time MR. MACAULAY would not object to raise the rate from Rs. 1-8 to Rs. 2, and to make that qualification applicable to all Municipalities. The Council had not before them sufficient information to enable them to fix differential rates of qualification, and the result of fixing a qualification of Rs. 4 for certain Municipalities would, he feared, be precisely the same as in the case of Serampore.

The HON. MR. BEVERLEY said he should oppose the amendment in its present form, because he was of opinion that it was neither necessary nor expedient to provide in the Act different qualifications for different places. Section 15 merely laid down a maximum limit when it said that, every person who paid rates to the extent of Rs. 1-8 should be entitled to vote. It was open to the Local Government, however, by the rules to be framed under that section, to reduce that limit, and to say as regards any particular Municipality that every person who paid Re. 1, say, should have a vote. If, therefore, it was thought that the sum fixed (Rs. 1-8) was too low a limit for any place, the proper course would seem to be to raise the limit generally, and leave it to the Local Government to

reduce it where it thought fit If the Hon. Member opposite (Mr. Macaulay) would agree to this course, and raise the limit generally to Rs. 2, 3, or 4, he should be happy to support him.

It had been assumed by the Hon. Mover of the amendment (and a good deal of his argument was based on the assumption) that fees for house-service, levied under Part IX of the Bill, would be taken into account as *rates* under section 15. It seemed to MR BEVERLEY that this was open to question; and if it was the intention of the Hon. Member in charge of the Bill that such fees should be taken into consideration in estimating the property qualification, MR. BEVERLEY would suggest the expediency of amending the wording of the section to that effect.

The HON. MR. REYNOLDS said he was not in favour of the amendment. The Hon. Member had confined his present proposal to the Suburbs of Calcutta, that being just the Municipality for which Mr. Reynolds had not received definite information from the Magistrate. With regard to Howrah he had got the figures There were 15,196 rate-payers, of whom 8,000 paid rates of from Re. 1 to Rs. 4, and 4,700 from Re. 1 to Rs. 3. But this alteration, it appeared to him, would be inconsistent with the principle of the section which the Council had already accepted. The section did not contemplate any necessary property qualification: it merely provided that, if any property qualification was imposed it should not be more than Rs. 1-8. With regard to the Memorial of the Suburban Rate-payers' Association he must say he could not appreciate the argument therein used. The house-service of which the Memorialists spoke, and which brought within the franchise such a large number of holdings, was really only a charge for service done. It was one of the voluntary parts of the Bill: it was not necessary that such service should be done, and it was possible that it might be done away with altogether. Leaving out the fees paid for house-service it appeared that the minimum rate paid in the Suburbs was 14 annas, in which case the rate paid by a large proportion of rate-payers would be below Rs. 1-8, and a considerable number of holdings would not be entitled to the franchise with the minimum of Rs. 1-8 fixed by the Bill. But as the matter stood at present those men who paid not less than Rs. 2-6 were persons who ought to have a voice in the election, having decidedly a substantial interest in the good government of the Municipality; the fact of their being ignorant men was not sufficient for their exclusion, so long as they had an interest in the Municipality being well governed. With regard to the suggestion made by the Hon. Member opposite (Mr. Macaulay) to raise the minimum qualification from Rs. 1-8 to Rs. 2, Mr. Reynolds was willing to accept it, but he should object to any differential scale in particular Municipalities. In answer to the Hon. Member on his right (Mr. Beverley) he said he certainly understood that rates included the payment of fees.

The HON. MR. DAMPIER said it was as well to call the attention of the Council to the fact that this memorial should not be spoken of, however

loosely, as a memorial from the Rate-payers of the Suburbs. It was a memorial from the Committee of the Rate-payers' Association; it was from those who belonged to what he had distinguished as the governing class; those who spoke and made themselves heard in that Council, as distinguished from the rate-payers, who would belong to the governed class. It was a petition from a certain class of the rate-payers to disfranchise other classes. The mirage was beginning to dispel as it was approached. Those who had been so anxious for this extreme freedom of self-government were already beginning to realise that it was only a first step, and that those who at first would be the governing classes would no longer monopolise that position after a certain number of years. The amendment divided itself into two very distinguishable points—*first*, whether the limitation of the qualification for voting should be raised; and *secondly*, whether any one who could vote should be eligible as Commissioner. On the first point he was willing to vote with the Hon. Member opposite (Mr. Macaulay) if he thought proper to propose a limit of Rs. 2.

The HON. MR. MACAULAY moved by way of amendment on the motion before the Council that Rs. 2 be substituted for Rs. 1-8 in the first and second clauses of the proviso to section 15.

The HON. CHUNDER MADHUB GHOSE by leave withdrew his amendment, and moved that Rs. 3 be substituted for Rs. 1-8 in the first two clauses of the proviso to section 15, in regard to all Municipalities generally.

HIS HONOR THE PRESIDENT said that the Local Government, with respect to each Municipality, would make rules for the qualification of voters, fixing the qualification of voters in regard to every Municipality in the Province; therefore it would practically be in the hands of the Government to decide what limitation should be put, and personally he would have no objection to the higher rate of Rs. 3 now proposed, if power was given to the Government, on the advice of the local officers, to make the rate lower. He should certainly prefer Rs 3 to Rs. 2 or Rs. 1-8.

The HON. CHUNDER MADHUB GHOSE'S revised motion to substitute the words "three rupees" for "one rupee eight annas" in clauses (1) and (2) of the proviso to section 15 was then put to the vote and carried on the following division:—

Ayes 7.	*Noes* 4.
The Hon. Kumar Boykantonath De.	The Hon. Harbuns Sahai.
" Chunder Madhub Ghose.	Col. the Hon. S. T. Trevor.
" Mr. Miller.	The Hon. Mr. Macaulay.
" Mr. Beverley.	" Mr. Reynolds.
" Mr. Dampier.	
" the Advocate-General.	
" the President.	

So the motion was carried, and the section as amended was passed.

The Hon. Mr Dampier said:—It has been agreed that the amendment which stands in my name shall be put to-day and discussed to some extent, particularly with the object of gathering further information and bringing all classes of thought to bear upon it. It has been suggested that I should state the position of the question. I wish it to be understood that I am now speaking of those Municipalities in which the rating according to the value of the property is in force, the rate being payable by the owner. My amendment applies to all holdings of a certain value, for whatever purpose occupied, whether as domestic holdings or otherwise—whether the property of the Government or the property of a firm or of individuals.

Now, under the present Act, a holding is to be assessed at its probable letting value. The value of buildings standing on land, and machinery within those buildings, is included in the valuation on which the assessment is made. In the progress of this Bill objections were made to the inclusion of machinery in the valuation, and as the Bill now stands machinery is to be excluded.

Next, the objection was made that in the case of every large building erected for special purposes, be it for a gun foundry belonging to Government or for a jute or cotton manufactory, or large *golahs*, such buildings have absolutely no letting value, and therefore to say that they should be assessed upon their letting value is only a specious way of getting rid of the difficulty of saying plainly that they should be assessed at the absolute discretion of the Municipal Commissioners. Then an attempt was made to meet this objection by a limit on the rate to be imposed upon the buildings, and the effect of the limiting proviso as it now stands in the Bill is this.—The Municipal Commissioners will primarily assess the holding, including the buildings, but excluding the machinery, at what they may choose to call the annual letting value. If no one is dissatisfied, well and good. But that assessment may be challenged by the person who will be liable for the rate in this way:—He may call upon the Commissioners to apply the maximum, which is 7½ per cent. on the original cost of construction of the buildings. The land on which they stand will always be liable to assessment in addition to this. That is the Bill as it now stands before the Council.

Then, the further objection was made by a special class. They said that "even with the maximum calculated on the cost of construction of the buildings there will be no guarantee against our premises being assessed at amounts which will be altogether disproportionate, taking a general view of the objects of municipal taxation and of the benefits which we, as the owners of these holdings, receive from municipal arrangements." The Hon. Member, Mr. Alexander, therefore moved his amendment in favour of the special objectors.

As it appeared that the Council was against legislation for a special class, and against any absolute maximum, after some informal discussion I suggested what appeared to me might eventually bridge over the difficulty between the

The Hon. Mr. Dampier.

Council generally and those who held Mr. Alexander's views. It seemed to me that, generally speaking, after the value of the buildings had reached a certain amount, it would be reasonable that the percentage of assessment upon the excess value should be less than the ordinary original percentage of assessment upon property throughout the Municipality. The consideration of this suggestion was put aside for one or two meetings, the object being to see how the application of such a principle would affect the circumstances and incomes of particular Municipalities. During the last week I have been trying to collect these statistics, and I have got now a number of figures, but it has been impossible to complete the information in such a way as to enable me to lay it before the Council, except in the case of four manufactories or mills only. I have asked the owners of property, and I have consulted the Magistrates of the 24-Pergunnahs and of Howrah for information. The information is in a forward state, but something is generally missing as regards each item which prevents my showing what the effect would be. In four instances only have I been able to bring it out. A certain manufactory in Howrah, which now pays Rs. 2,335 a year of house-rate assessment, including the value of buildings and ground, would have to pay for its buildings annually, if calculated under the amendment which now stands in my name, Rs. 1,054 a year, and the assessment on the land would be in addition to this.

In the Suburbs one manufactory, paying Rs. 1,575, including the assessment upon land, would, under the maximum, have to pay Rs. 1,106, besides assessment upon land. Another one pays Rs. 1,725, and it would have to pay Rs. 984.

One, in Serampore, which is prominent in advancing these objections and calling for a limit, has to pay Rs. 1,007, and would be liable under the working of my maximum even to about Rs. 1,402 in addition to the assessment of the value of the land on which the buildings stand.

Another question, as affecting the income of some Municipalities, is to ascertain how this or any other maximum would apply to the case of Government buildings, which contribute very large amounts to municipal income.

If the Council would be pleased to put off the discussion, I hope next Saturday to lay before them a statement which will give particulars as regards a good number of buildings—whether they belong to Government or to private individuals. With these remarks I beg formally to move the amendment which stands in my name for discussion :—

"*Section* 100.—After the first Proviso of this section, add the following :—

"And, further, that where the actual cost so ascertained or estimated shall exceed the sum of one lakh of rupees, the percentage to be levied on the excess shall not exceed one-fourth of the percentage determined by the Commissioners under section 101."

* NOTE.—"The following tables will shew the effect of the above amendment :—

I.—Table shewing the maximum rates that can be levied under the Proviso to section 100 as it stands :—

Cost of building.	Annual value at 7½ per cent. on cost.	Amount of rate at a percentage of—		
		4	6	7½
Rs.	Rs.	Rs.	Rs.	Rs.
1,00,000	7,500	300	450	562
2,00,000	15,000	600	900	1,125
3,00,000	22,500	900	1,350	1,687
4,00,000	30,000	1,200	1,800	2,250
5,00,000	37,500	1,500	2 250	2,812
10,00,000	75,000	3,000	4,500	5,624

II.—Table shewing the maximum rates that could be levied under the Proviso to section 100 as proposed to be amended, *i e.* on the principle that the full rate shall be levied on buildings the cost of which does not exceed Rs. 1,00,000, and a quarter rate on the excess above that sum :—

Cost of building.	Annual value at 7½ per cent. on cost.	Excess annual value over Rs. 7,500 (= 7½ per cent. on Rs. 1,00,000).	Amount of rate at a percentage of—								
			4			6			7½		
			Full rate up to a lakh.	Quarter rate on excess.	Total.	Full rate up to a lakh.	Quarter rate on excess.	Total.	Full rate up to a lakh.	Quarter rate on excess.	Total.
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1,00,000 ...	7,500		300	.....	300	450	.....	450	562	.....	562
2,00,000 ...	15,000	7,500	300	75	375	450	112	562	562	140	702
3,00,000 ...	22,500	15,000	300	150	450	450	225	675	562	281	843
4,00,000 ...	30,000	22,500	300	225	525	450	337	787	562	422	984
5,00,000 ...	37,500	30,000	300	300	600	450	450	900	562	562	1,124
10,00,000 ...	75,000	67,500	300	675	975	450	1,012	1,562	562	1,265	1,827

N.B.—The rate on the *land* will have to be added to the above, which is only the rate on the *buildings*."

The HON. MR. BEVERLEY said :—Sir,—My Hon. friend has given the recent history of this amendment in the Council, but I should like to carry the Council back a little further in its history with the view of showing the necessity of some such amendment as he has proposed. My Hon. friend has already pointed out that in the existing Act there is no such proviso as is found in the Bill before the Council. Section 92 of the present Act simply contains the first clause of section 100 of the Bill, and under that section the gross annual rent at which any holding may be reasonably expected to let is to be taken as the annual value thereof. With reference to that section a memorial was presented to the Council by Mr. Birkmyre. I was not a Member of the Council at

The Hon. Mr. Beverley.

This note was annexed to the amendment when circulated to the Members of Council.

that time, but I believe I am correct in saying that it was that memorial which led to the proviso being annexed to this section. In that memorial, Mr. Birkmyre states that mills at home are assessed at considerably lower rates than householders or other domestic rate-payers, and he gives certain other reasons why some consideration should be granted in such cases. The Select Committee in their preliminary report said:—"Under Part IV we have considered whether the amount assessed when a rate is levied on the annual value of holdings should be subject to any maximum in the manner provided when a tax is levied upon persons. We have made some enquiries on this point, and have ascertained that while any such limitation would be operative in only a very few Municipalities, it would in those Municipalities have a very injurious effect. At the same time our attention has been called to cases in which the annual value of holdings has been determined in what seems a very arbitrary manner, and we are of opinion that some rule should be laid down for the guidance of municipal authorities in making valuations We have therefore inserted words to provide—1*st*, that the value of machinery shall not be included (a provision which also finds place in the Calcutta Municipal Act); 2*ndly*, that where the cost of erecting the buildings can be ascertained or estimated, the valuation shall not exceed 7½ per cent. on such cost, together with a reasonable amount on account of ground-rent." When the amended Bill was published with this proviso, a memorial was presented by Messrs. Mackinnon, Mackenzie and Company, complaining of the proviso, and pointing out that it placed them in an infinitely worse position than under the existing law. In their memorial (paper No. 81) they say that under this proviso they would have to pay about four times the amount of taxation that they are paying now under the present law. That memorial was made use of at a recent debate by the Hon. Member opposite (Mr. Macaulay) to show that Municipalities were not at present levying the full rate of assessment that they were entitled to levy. That is not quite a correct representation of the argument; because, what is referred to in the memorial is not what Municipalities may levy under the existing law, but what they may levy under the new proviso to section 100 of this Bill. I shall refer to this argument again in support of what my Hon. friend (Mr. Dampier) and I have adopted as the basis of our amendment, namely, that above a certain limit one-fourth only of the full rate should be assessed, when the tax would be much the same as at present, or perhaps something more.

I think, then, Sir, that this memorial shows—and Hon. Members may easily work it out for themselves—that the effect of the proviso as it stands will really enable Municipal Commissioners to impose a very much higher rate than they can under the existing law. Under it the last state of the Memorialists will be worse than the first. It therefore seems to me that some maximum is necessary to qualify the proviso, supposing that the Council think it necessary and desirable to retain the proviso at all. It may be said that the proviso merely lays down a maximum in certain cases, and that it is not necessary to act up to it in every case, but it seems to me that it will in practice become the rule, and when the difficulty is considered of estimating what the gross annual

letting value may be, an assessment on the value of the buildings and the land will be held to be the simplest way of getting out of the difficulty, and moreover a way that has been distinctly pointed out by this Council.

Now, there are strong arguments in favour of the amendment now before the Council. In the first place it seems to me that there is an essential difference between buildings used as residences and those which are occupied for purposes of trade. To tax the buildings used for industrial purposes is virtually to tax the industry itself. Beyond a certain point, such a tax becomes a tax on profits no less than if it were levied on the machinery. In the memorial I have already referred to, Mr. Birkmyre states that at home mills are assessed at considerably less rates than house-holders or domestic rate-payers. I have made enquiries on the point, and cannot find any authority for that statement as regards England. But I find that in Scotland a classification of the rates is in force according to the nature of the occupation. Residential occupancies may be charged at a high rate, whilst occupancies for the purpose of farming, business or manufacture, may be charged at a comparatively low rate. Thus I find from the evidence of Mr. F. J Cochran before the Select Committee of the House of Commons on Local Taxation, 1870, the following rules are laid down for the classification of lands in Old Machar—a parish containing nearly half the city of Aberdeen and five or six miles of farms outside it :—" The lands and heritages in the parish of Old Machar shall, for the purposes of the assessment on the tenants or occupants, be distinguished into three separate classes ; the first class consisting of dwelling houses, and all other lands and heritages except those mentioned in the second and third classes ; the second consisting of shops, warehouses, and stables used solely in the occupier's trade or business, business offices, spinning mills, manufactories, brick-works, quarries, water-powers and railways, gas-pipes, water-pipes and ground used for such pipes ; and the third class consisting of farms, cultivated grounds, and fishings ; and that the rates of assessment upon the tenants or occupants as such shall be so fixed as that the rate upon those of the second of the said classes shall be as nearly as possible one-half, and the rate upon those of the third class as nearly as possible one-fourth part respectively of the rate upon those of the first class." Thus the Council will not be legislating without precedent if it agrees to this amendment.

But we may look at the question from another point of view. The sole object of the proviso is to get at the real letting value of the premises—the gross annual rent at which the premises may reasonably be expected to let. That letting value has been assumed in the proviso to be represented by 7½ per cent. on the cost. I think Hon. Members will bear me out that this may represent a very fair return for house property in Calcutta ; but to lay it down as a fair return for the whole of Bengal seems to me to be legislating somewhat in the dark. Beyond a certain point this general rate will not apply. Large mansions and palaces cannot be expected to bring the same return as a reasonable house of moderate size. Tenants have to take into consideration the expense of keep-

The Hon. Mr. Beverley.

ing up a large house. Some of us know of many large places which are lying vacant because they cannot find tenants rich enough to keep them up. The same argument applies to large offices and large godowns. The letting value of a building depends upon the demand for such buildings, and where there is no demand there can be no letting value. Buildings are often adapted for particular purposes, and it is not every one who has the capital or the enterprise to use them for the particular purposes for which they are adapted, and if let as buildings for general purposes they cannot be so valuable as for that particular purpose. I think it may be said that beyond a certain limit buildings alone, independent of the purpose for which they have been erected, cannot be assumed ordinarily to yield a return of 7½ per cent. The amendment takes one lakh of rupees as that limit, which seems reasonable enough, that being a high estimate of the cost of ordinary residences of gentlemen in Calcutta. Beyond that it is proposed that the rate shall be levied at one-fourth only, and the reason for taking that proportion is, as I pointed out before, that Messrs. Mackinnon, Mackenzie and Co. have shown that, under the proviso as it stands, they will have to pay about four times as much as at present. It seems to me, therefore, that up to a lakh of rupees the full rate may be paid, but beyond that limit the rate should be levied at one-fourth, which would yield about the same amount as is levied at present. I shall therefore support the amendment.

The Hon. Harbans Sahai said:—I beg most respectfully to oppose the amendment. Municipal rates press more hardly on poor persons than on the rich. Hitherto, as far as I have been able to study the law, one uniform form of assessment by way of a percentage on the letting value or the cost of a building has been all along adopted: there has been no varying percentage as is now proposed. The amendment, it appears to me, will virtually benefit rich owners of manufactories or other very costly buildings. I am also afraid that, under the proposed amendment, some Municipalities may lose very large sums, and I am equally afraid that they may try to make up their losses by imposing additional taxation on the poor, and that is a result which I believe no Member of this Council will desire. As far as I have been able to hear and to see in the memorials before the Council, no strong case has been made out for proposing any amendment in the existing law. It has not been shewn that any real injustice has been done to mill owners or the owners of other large buildings, or that any kind of damage has resulted to either. Under these circumstances, I urge for the consideration of the Council that we are rather unnecessarily interfering with the existing law, which, as far as we are aware, has been working smoothly and satisfactorily. The tables which have been prepared by the Hon. Mover of the amendment shew that, in the case of a building which has cost ten lakhs in its construction, as the law at present stands, or according to the present Bill, the owner may be liable to pay Rs. 5,624, whilst under the proposed amendment he will only have to pay Rs. 1,827. Of course the rate on the land will have to be added,

and what that may amount to I am not in a position to say, as no facts or figures have been given. There is no certainty therefore that any relief will be practically afforded to the owners of large buildings, and therefore, even in their interest there is no necessity to interfere with the law. If the owners can afford to spend so much money in the construction of buildings, they could equally afford to pay a fair rate of tax upon them. If, on the contrary, it is said that the case of mill and other owners would be rather worse than better, I will equally raise my voice against the amendment. Under all the circumstances I think it will be better to leave the law alone, there being no necessity to vary the rate of assessment in respect of any class of holdings.

The Hon. Mr. Miller said:—I wish to trouble the Council with but few remarks to-day, as I think it wise, as we are promised further information, that we should abstain from making any comment at any great length, until we have all the facts and figures before us which we are promised. I feel rather at a disadvantage as this is the first time that I have had the honour of sitting here and have not of course had the opportunity of hearing the various discussions which have taken place on this provision and the other parts of the Bill which may have a bearing upon it. But I thought it right to put myself in communication with the special class who think that they are likely to be injured by the special provisions of this Bill now under discussion; and although I can in no way say that I represent this class, yet in a certain degree they have my sympathy, because it also is in accordance with my judgment, when they complain that they are rather unjustly treated by this provision of the Bill. We are, in legislating in this direction, contravening the canons of taxation which prevail at home, and which have to-day received illustration from my Hon. friend to the left (Mr. Beverley). The proposition is laid down by Stuart Mill in unqualified terms that all buildings used exclusively for business purposes ought to be exempted from taxation, *quâ* industrial holdings; in other words, that they ought to be treated as occupancy holdings, and merely assessed on the rental they would pay if they were let as occupancy tenements. Now, some of those gentlemen who have communicated with me in regard to this question have pointed out very emphatically the grievance that, in calculating the cost of the buildings which have been erected, depreciation is not taken into account. We are all acquainted with the famous Berhampore barracks which cost thirty lakhs in construction. The present value, I take it, would be under two lakhs. These barracks, or a large portion of them, at one time, I believe, were purchased by a private individual, and their present value would not be now two lakhs. Now, supposing the Municipality were to assess the rate on these buildings at the cost of construction, I need hardly say what an injurious and oppressive rate that would be. The Hon. Member to my right has pointed out that Municipalities would probably lose a large income simply because, if the Hon. Member's amendment was carried, Government assessments would be

The Hon. Harbans Sahai.

very much curtailed. All I can say is that, that appears to me one of the strongest arguments for supporting the amendment. It does appear to me that no Municipality ought to be privileged to levy black-mail, as it were, upon the general tax-payers for special purposes of local taxation. But if the statement is correct a very manifest injustice is perpetrated, and it is clear that Municipalities must look for their revenues elsewhere. We have seen certain papers circulated by the mill-owners and agents representing important commercial industries. It has been pointed out that no objection has been made to paying fair rates equally and equitably levied; but a very strong objection is expressed to the proposal to tax heavily, unduly, and unequally, mills and other industrial holdings. It is complained that the industries derive little or no advatange from municipal administration. It is shewn by figures that in certain Municipalities, if rates are to be levied on the scale provided in the Bill, two or three mills will be liable to pay half the revenue. That, surely, will not be fair and just to them. The present is a time of depression. Most of these industries are pulling a labouring oar. If now they are to be handed over in this arbitrary manner to a liability to arbitrary and exorbitant taxation—because it must be remembered that this Bill provides for no appeal, and that we are deprived here of the safeguards which prevail in England against the abuse of the powers of local taxation—then in that case the working of the Bill might be attended with very great injustice. There is no tax-paying community in England which does not possess the right to appeal outside the rating authority. Here we have nothing of that sort. It is a presumption in legislation that if you give arbitrary power you ought to presume that it may be exercised in an arbitrary manner, and therefore it should be fenced round with legal precautions. Nobody can for a moment doubt the enormous advantages which have accrued to the country from the fact of the establishment of these industries. In one of these memorials it was pointed out that upwards of four crores have been invested in these industries, and that they give employment to more than 100,000 men. There is another consideration which I hope will induce the Council to pause before accepting the present principle of rating proposed, and that is that there is no doubt at the present time a feeling of soreness in mercantile circles that these industries are to be made a sort of scapegoat for the working of this municipal scheme. That feeling may be unfounded; but in the interests of the Municipalities I would ask the Council to remember that when the various Municipalities ask for money loans, it is to the European money market they will have to go, and if these disturbing elements are introduced, the friction indeed might be calculated to wreck the success of the Bill.

The Hon. Chunder Madhub Ghose said :—If I was satisfied in my own mind that the amendment proposed to be made would not have the effect of lowering the amount of revenue now obtained in the Municipalities under the Government of Bengal, I should have no hesitation in voting for it. But we

have not got proper figures and facts before us, and I do not think it would be at all wise to determine the value of the amendment before the Council without having more materials before us than there are at present. Perhaps the Hon. Harbans Sahai was labouring under a mistake when he assumed that the result would be to considerably lower the amount of revenue that was now obtained. The figures which are to be found in the notice paper of the amendment of the Hon. Mr. Dampier show in the two tables, first, what would be the maximum amount of rate which might be obtained under the Bill as it stands, and, secondly, what would be the result if the amendment were to be carried out. The figures which are now supplied show to some extent certainly that the amount of revenue might be lower if the amendment was carried, but as the Hon. Member states that he has not been able to obtain all the materials and lay them before the Council, I would beg the Council to guard itself against an amendment the result of which might be to lower the amount of revenue from what is now derived by any one Municipality under the Government of Bengal. In the Suburbs and other places there are large mills and factories which pay very large amounts, and if the result of this amendment will be to curtail those payments, I should fail in my duty if I did not oppose its passing. I would therefore suggest that the proper figures and facts be given.

The Hon. Boykantonath De said:—Although the amendment now proposed appears more general in its application, I have still doubts as to the propriety of such an amendment. It has been urged by an Hon. Member that a certain Government godown not far away from this place has been assessed by a certain Municipality at Rs. 15,365 a year. It is to be assumed that the assessment was made at the full rate on the entire value of the holding, and that no objection was ever made to such an assessment. It has also been urged that practically the assessment on jute mills never exceeded Rs. 1,000 or so, although they could be legally assessed at over Rs. 4,000. Am I to understand from such assertions that jute mills had hitherto been underassessed by the Commissioners? If this be so, it does not speak very well of such Commissioners, who, in the case of a public holding, made an exorbitant taxation, while in the case of jute mills they made a nominal assessment only. I really do not understand the principle of taxation followed by such Commissioners. I don't see how a course, apparently unjustifiable in itself, can furnish justification to a measure equally objectionable. The present law, which is applicable alike to public buildings and manufacturing establishments, ought to be enforced equally in both the cases. When the absence of a limit of assessment in the case of higher value has had no effect in preventing under-assessment, the laying down of a limit would on the contrary give rise to a greater chance of under-assessment. The result of such a measure would, at the outset, be a tremendous falling off in the income of a Municipality, and an increase in the long run of taxation of the very classes who are least able to bear it. Under the circumstances, I regret I cannot give my assent to such an amendment.

The Hon. Chunder Madhub Ghose.

The HON. THE ADVOCATE-GENERAL said:—I am extremely glad that this discussion has taken the turn which it has. I am extremely glad that it was postponed in order that the subject of the present discussion may be put on the footing of a definite principle. Some days ago I pointed out that manufactories in this country were a young and growing industry, and if they were subjected to a heavy burden of taxation such a step was calculated to hamper the efforts that are being made in the direction of improvement, and retard the prosperity of the country. I put it to Hon. Members as a simple elementary proposition in political economy, but I did not get any reply. I have not sufficient time at my disposal to look into authorities, and we ought to be extremely obliged to the Hon. Mr. Beverley, who has put the matter on a sound footing, as well as to other Hon. Members who have addressed the Council. I certainly thought that the discussion of this matter, which is primarily a commercial one, should have been proceeded with on the question of principle; and I think that the arguments which were on a former occasion put forward that hitherto no injustice had been done, or that this is class legislation, are wholly irrelevant. We have to consider whether we shall make a law which is just and righteous in principle, or whether we shall enact something which is based on no principle at all; and I deny that the subject on which we are called upon to legislate, viz. to deal with the particular subject of mills and manufactories, can at all be regarded as class legislation. It is not because it so happens that Europeans are the owners of mills, or the Government happens to be the owner of manufactories and workshops, that any legislation in regard to them must be class legislation. If native gentlemen of wealth and enterprise should embark in undertakings of this description, the legislation will equally apply to them. I therefore fail to see that the argument of class legislation has any force, and trust we shall hear no more of it. The Council is called upon to pass a law which is just and righteous; to take the whole matter into consideration; and to base their action on some recognised, intelligent, and civilised principle, and they ought not to be thwarted in their good work by the assertion that nobody has complained of injustice. The fact is that at times no complaint of injustice is known to the Council, but it does not follow that nobody has complained. We are now giving Municipalities larger powers than they have hitherto possessed, and the fact that past experience has not shewn many blots in the conduct of existing Municipalities is no sufficient reason for supposing that in future powers conferred will be properly exercised by members of a new system which is about to be introduced, as it appears to me, as an experimental measure. The question is not whether any injustice has been done, but whether we ought not so to provide as to prevent injustice in future.

The HON. MR. MACAULAY said that he had intended only to offer a brief explanation with reference to a remark which had been made by the Hon. Mr. Beverley. He could not, however, refrain from noticing the speech which had just been delivered by the Hon. and learned Advocate-General. A

great deal of what had been said by the Hon. gentleman might with consistency have been said on a previous occasion, but it had no connection with the subject now under consideration. The Hon. gentleman had referred to an expression used by him (MR. MACAULAY) and concurred in by his Hon. friend Mr. Reynolds in the course of a previous debate, and characterized it as irrelevant to the amendment before the Council. He thought the irrelevancy lay wholly with the Hon. and learned gentleman himself. He was astonished that the Hon. gentleman had not observed that the expression had no reference whatever to the present amendment. He had said that the amendment previously proposed by his Hon. friend Mr Alexander, with the view of protecting manufacturing premises only, would be a piece of class legislation. He contended that this would be a correct description of it. It would have protected a jute mill, but would not have protected a building used as a store or warehouse. The present amendment, however, had no reference whatever to class, but would apply to all buildings alike. Why the Hon. gentleman should think it necessary to support it by denouncing an expression used in regard to a wholly different matter, he could not understand. He had said nothing whatever about Europeans and Natives, and had not referred to class legislation in any such sense.

With reference to the Hon. Mr. Beverley's remarks that he had overlooked the fact that the figure given by Messrs. Mackinnon, Mackenzie and Co. was the rate at which the mill might be assessed, not under the old law, but under the present Bill, MR. MACAULAY said that he was well aware that the petition referred to the present Bill. But that only made the case stronger. In the old law machinery was not excluded, and a rate of 7½ per cent. for valuation was not fixed. All was left to the discretion of the Commissioners. According to the valuation given by Messrs. Mackinnon, Mackenzie and Co., they might have charged over Rs. 9,000 at 7½ per cent., had the cost of the machinery been included. The Commissioners only charged Rs. 1,006.

The HON. MR. DAMPIER said in reply:—When in an unguarded moment I threw out a suggestion which I hoped would smooth matters between those who were represented by Mr. Alexander's amendment and the general sense of the Council, I little knew what I was undertaking. I expected that my suggestion, if adopted at all, would be taken up and the details worked out by some Hon. Member who identified himself with the views which the Hon. Mr. Alexander's amendment represented. But that Hon. Member has left the Council, and circumstances have thrown it on me to carry my suggestion through its details. I feel something in the position of Sir Isaac Newton's dog: "thou little knowest what thou hast done, Diamond." I can only say that I shall collect all the statistics I can in the very short time which is allowed me for a conclusion to be arrived at by the Council, so far as it affects the income of Municipalities.

The Hon. Mr. Macaulay.

As to the principle which has been advocated to-day in some of the speeches, that the assessment on holdings occupied for industrial purposes should be lower than that on domestic holdings, I hope that any Hon. Member who wishes to press it will put it in the shape of an amendment of which perhaps more than two hours' notice will be given to the Council.

I omitted at first to mention that, in making what enquiries I have, I have been much assisted by my Hon. friends Mr. Beverley and Mr. Miller, the latter of whom has been the channel of communication with the private firms from whom I sought information.

And lastly, I have to say as to the statement that no hardship had been done under the existing law, that it must be remembered that under the law as it exists, if anything unreasonable had been done, the Government of Bengal, which has been my panacea throughout, would have known how to deal with individual cases of hardship and apply a remedy, whether by way of exercising its influence, or in the exercise of its constitutional powers. The Hon. Member opposite (Babu Harbans Sahai) has told the Council that it is necessary to provide checks against arbitrary and unreasonable action of the Municipal Commissioners in respect to their Chairman. If such conduct can be anticipated, how much more necessary must it be to provide safeguards against it where it affects the rate-payers? The Bill is giving very arbitrary powers to the Commissioners without leaving to individuals any right of appeal. When you say that the letting value of such large buildings, which are adapted to special purposes only, is to be the measure of assessment, it is only a euphemious way of saying that the rate shall be assessed on any sum which the Commissioners choose to name as the letting value, against which no constitutional remedy is given. Therefore, it is, and I think not unreasonably, that some of those who are subject to the tax say "if you do not give us the protection of appeal to an independent authority in the matter of assessments, give us some safeguard in the Bill itself." In matters of revenue ettlement by officers who are not connected in any way with the department which spends the money derived from these assessments, we are told daily that the revenue officers are nevertheless biased, and that the Munsiff is the only man who can be trusted to judge of the fairness of assessments because he has no bias. Now, if revenue officers who have no interest, either official or personal, in the amount of revenue assessed by them (except in so far that the lighter the assessment, the less trouble there is to them in collecting the rents or revenue which they have to hand over to the Financial Department) are not to be trusted as being biased, it must be admitted that Municipal Commissioners are much more interested in making assessments, and in getting as much money as possible to spend for the benefit of the Municipality, and therefore it must be still more dangerous to trust them with arbitrary power.

His Honor the President said:—I understand that it is the wish of the Council that the question which has been raised upon the amendment should stand over for decision till next week, and that the week should be employed

in securing further information or a series of further information both as to the figures and facts elicited in the important question which is now under consideration. I am sure I may add that I am very glad that the discussion of to-day has taken place, as it has elicited earnest, independent, and able speeches on a Bill which is of very great importance indeed; and though I reserve my own judgment till we have heard further discussions upon later facts and figures, I am bound to say that my own feelings are in favour of the argument which has been commonly pressed by some Hon. Members to-day, and that the objection as to the impoverishment of Municipalities does not carry with it much weight. I do not see that we have only to look to Municipalities being supplied with funds; if these funds are based on a system of assessment or rating which creates friction, and if there is injustice in that form of assessment, we shall be obliged to limit the powers which they are now able to exercise, and we will be right in doing so, either by some limitation as to the amount of assessment which they can impose or by some form of appeal to a higher or different authority which will be able to protect individual assessees from the exercise of arbitrary powers in this way. I hope, however, that the whole question will be settled and come to an end by next Saturday, and with the disposal of that question and the cognate question connected with section 84, and section 6, we shall see the end of this large measure.

The further consideration of setion 100 was then postponed.

The Hon. Mr. Dampier moved that the following new section be inserted after section 103:—

"If the annual value of any holding assessed under this Part shall exceed the amount of rent payable by the occupier to the owner, the owner may in such case recover from the occupier the difference between the sum assessed upon him and the sum at which he would have been assessed had he been rated only upon the amount of rent actually payable to him, and such difference shall be added to the rent payable by the occupier, and shall be recoverable by the owner from him."

He said that in the existing Act and in the Bill as it stood the rate on the assessment value was payable by the owner of the holding. That had been the law in the Mofussil since 1876. Before that there was only an assessment payable by the occupier. Suppose A. was the proprietor of land on which stood a building. He gave a long lease, say of 30 years, at a low rate of rent—the rent which prevailed at the time of giving the lease. The value of premises had been increasing very rapidly in some Municipalities, and when the Commissioners now came to assess the property they would assess it at its present value, and the owner would have to pay the rate on a much higher valuation than was represented by the rent which he was receiving on the long lease which he had given. He thought it was obviously unfair that one man should enjoy the benefit of the increased value of property and another man should have to pay the higher rate of taxation. The amendment which Mr. Dampier proposed would affect only contracts made before 1876. The amendment, as it was drawn, might however disturb the division of profits as arranged by contracts made after 1876, if they were made on

The President.

the presumption that the owner would have to pay on the increased rate of taxation that might be afterwards payable; and therefore to get over that difficulty he proposed, with the permission of the Council, to add to the amendment the following proviso :—" Provided that this section shall not apply to any holding which at the time of passing this Act might be held by the occupier on a rent which was determined after the passing of the Bengal Municipal Act, 1876 " MR. DAMPIER found he had to correct himself. A rate on the assessment on holdings had been in force in a few Municipalities since the passing of the District Municipal Improvement Act, 1864, and the wording of the proviso would have to be reconsidered with reference to this.

The HON. MR. REYNOLDS said he could not agree to the proposed new section. He thought the Council ought not to be asked to pass an amendment of this kind, unless some representation had been made to it that owners of property were injuriously affected by the working of the law. The Hon. Member wished to insert this section, which was taken from section 90 of the Calcutta Act, merely because it might be assumed that the Legislature had accepted the justice of the principle; but the course which the Hon. Member should have taken was not to insert the section after section 103 of this Bill, but in lieu of that section. Section 103 reproduced the essence of section 90 of the Calcutta Act. Mr. Reynolds could not say that he had taken into consideration the contingency which the Hon. Member put before the Council of a long lease of thirty years, because such leases were by no means common; the common case contemplated by section 103 was the letting of land for building purposes, and as regards such cases it was provided that the shares to be borne by the two parties should be determined by the Commissioners. The amendment, as he had suggested to the Hon. Member, would interfere with existing contracts, and therefore he could not support it. But the Hon. Member wished to add a proviso which would save existing contracts. In that case the proposed section seemed unnecessary, because, if the Legislature was not going to interfere with existing contracts, future contracts would be made with the knowledge that the specific provisions of the law would apply.

The HON. MR BEVERLEY said he would vote against the amendment on the ground that it was opposed to the principle of the Bill which threw on the owner the liability to pay the rate. The amendment assumed that in every case the owner really recovered from the occupier the amount of the rate paid by him, but that was an assumption which was not borne out by enquiries made in other countries. The Select Committee of the House of Commons appointed in 1870 to enquire into the question of local taxation in England, which was known as Mr. Goschen's Committee, examined very carefully into this point, and they reported as follows :—" Your Committee have examined many witnesses, and received at their hands very conflicting opinions as regards the proportion in which the burden of rates at present falls relatively on owners and occupiers"; and although they made a recommendation that the

rates should be levied partly on the owner and partly on the occupier, that recommendation was made with the view that both classes should be represented in Local Self-Government. Under this Bill there are other rates which fall upon the occupier.

After some conversation the HON. MR. DAMPIER withdrew the proviso which he proposed to add to the section, and the original motion was put to the vote and negatived on the following division:—

Ayes 3.	*Noes*, 8.
The Hon. Mr. Miller.	The Hon. Kumar Boykontonath Dé.
,, Mr. Dampier.	,, Chunder Madhub Ghose.
,, the Advocate-General.	,, Harbans Sahai.
	,, Mr. Beverley.
	Col. the Hon. S. T. Trevor.
	The Hon. Mr. Macaulay.
	,, Mr. Reynolds.
	,, the President.

The further consideration of the Bill was postponed.

The Council was adjourned to Saturday, the 15th March.

Saturday, the 15th March 1884.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President.*
The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
COLONEL the HON. S. T. TREVOR, R.E.
The HON. H BEVERLEY.
The HON. A. B. MILLER.
The HON. CHUNDER MADHUB GHOSE.
The HON. HARBUNS SAHAI.
The HON. KUMAR BOYKANTONATH DE.

CALCUTTA TRAMWAYS.

COLONEL THE HON. S T. TREVOR moved that the report of the Select Committee on the Bill to amend the Calcutta Tramways Act, 1880, be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

COLONEL THE HON. S. T. TREVOR said he had to ask the permission of the Council to move a small verbal amendment, of which unfortunately notice had not been given, because the necessity for it was only brought lately to his notice. The Select Committee in their report said:—"We deemed it desirable that the provisions of the Bill should not apply to the Fort, and have amended the definition of the word 'Calcutta' in section 2 with the object of giving effect to this conclusion." The alteration which the Committee had made consisted simply in the addition of the words "but not Fort William" at the end of section 2. "Fort William" was rather an elastic term. Sometimes it included only the Fort, and sometimes it included the Esplanade and the Fort. As the object of the Bill was to exclude only the Fort, but to include the Esplanade, he moved, with the view of making that perfectly clear, to insert the words "the area included within the fortifications of" after the word "not" in line 5 of section 2.

The motion was put and agreed to, and the Bill as amended was passed.

AMENDMENT OF THE CALCUTTA MUNICIPAL ACT.

The HON. MR. MACAULAY moved for leave to introduce a Bill further to amend the Calcutta Municipal Consolidation Act, 1876. He said that the application which he had the honour to make was based in a great measure on the circumstances which he had detailed to the Council some months ago, when he asked for leave to introduce a Bill to provide for the supply of filtered water for the Suburbs. He then explained that a scheme had been adopted for doubling the filtered supply of the town and providing a supply of 4,000,000 gallons for the Suburbs. He need hardly say that the carrying out of such an undertaking must necessitate the raising of a large money loan; and as the present condition of things was unfavourable to such an operation being carried out in India, the Commissioners had applied to the Government for permission to enlarge the area of their borrowing operations in order to enable them to raise a Sterling loan in the English market. As the law stood, the Commissioners were only able to contract for rupee loans, and until the law was altered no action whatever could be taken in the direction desired. He was not then concerned with the general policy of raising Sterling loans for Indian public works: the decision on that point rested with the Secretary of State. He would now merely ask the Council to remove the legal disability and assimilate the Calcutta Municipal law to the Port Commissioners' Act, by providing that the Commissioners should not be debarred from borrowing out of India in Sterling currency should the Supreme Government give permission to do so.

The motion was agreed to, and the rules having been suspended, the Bill was read in Council and referred to a Select Committee consisting of the Hon Messrs. Reynolds, Chunder Madhub Ghose, and the Mover.

BENGAL MUNICIPALITIES.

On the motion of the HON. MR. REYNOLDS the clauses of the Bill to amend and consolidate the law relating to Municipalities was further considered.

The HON. THE ADVOCATE-GENERAL said he had been considering the definition of "holding" further, and it appeared quite clear that, under that definition, three conditions must be satisfied to constitute a place a holding,—the land must be held under one title or agreement; it must be surrounded by one boundary, or, more properly speaking, one set of boundaries; and, lastly, it must be occupied by one person, firm, or family. The definition would not hold good if any one of these conditions remained unfulfilled, as for instance if the land was held by more persons than one not being members of a firm or family. He proposed the definition thus:—"'Holding' means land held under one title or agreement, surrounded by one set of boundaries, and occupied by one or more persons, firm, family, or company."

The HON. MR. REYNOLDS suggested that the last clause of the definition as to occupation be omitted.

The HON. THE ADVOCATE-GENERAL said he had no objection to the amendment suggested; and (after some conversation) he moved the following definition of the word "'holding' in lieu of the definition contained in the Bill:—"'Holding' means land held under one title or agreement, and surrounded by one set of boundaries."

The motion was put and agreed to.

The HON. THE ADVOCATE-GENERAL then moved that the following proviso be added to the definition:—

"Provided that, where two or more adjoining holdings form part and parcel of the site or premises of a dwelling-house, manufactory, warehouse, or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act, other than those mentioned in clause (*a*) of section 84.

Explanation.—Holdings separated by a road or other means of communication shall be deemed adjoining within the meaning of this proviso."

He said he had added the explanation to make his intention more clear. The proviso in itself would be of very limited application. As far as section 84 was concerned, the general provision would apply, but in respect of other portions of the Act the definition of "holding" would be controlled by this proviso.

The HON. MR BEVERLEY thought that the difficulty of framing a suitable definition of the term "holding" should suggest the expediency of avoiding the use of the term altogether. For his own part he thought it would be quite possible to avoid the use of the term. Section 84 of the Bill authorized

the Commissioners to impose an alternative too—either a rate on the annual value of all immoveable property within the Municipality, the said rate to be paid by the owner; or a tax upon the occupier according to his circumstances and the property he occupied within the Municipality. As regarded the rate, it was quite immaterial whether the property rated was comprised in one or more holdings, the rate being assessed upon the annual value. As to the tax on occupiers, it was considered necessary to fix a maximum limit, and that limit was fixed at Rs. 84 for each single holding. It thus became necessary to define the term "holding." But section 89 provided that, when a person was assessed at more than Rs. 84 by reason of his occupying more than one holding, he might elect to be rated at 7½ per cent. on the annual value of his holdings; and MR. BEVERLEY would extend this principle. He would abolish the limit of Rs. 84 per holding, and he would allow any person who was dissatisfied with his assessment to claim to have the property occupied by him rated under section 89. It would thus be quite unnecessary to speak of holdings at all; it would be sufficient to substitute the word "property," with possibly the addition of a definition of immoveable property.

After some conversation the Advocate-General's motion was carried on the following division:—

Ayes 7.	*Noes* 4.
The Hon. Harbuns Sahai.	The Hon. Kumar Boykantonath Dé.
" Mr. Miller.	" Chunder Madhub Ghose.
" Mr. Beverley.	" Mr. Reynolds.
" Mr. Macaulay.	" Mr. Dampier.
Col. the Hon. S. T. Trevor.	
The Hon. the Advocate-General.	
" the President.	

On the motion of the HON. MR. MACAULAY the words "this Act comes into force" were substituted for "passing of this Act" in line 6 of section 13, and the words "not exceeding seven and a half per centum may" were substituted for "seven and a half per centum shall" in lines 7 and 8 of section 88.

The HON. MR. REYNOLDS moved to substitute the following proviso for the proviso to section 84, clause (*a*):—"Provided that the amount assessed on any one person in respect of the occupation of any one holding shall not be more than eighty-four rupees per annum." He said that this amendment was rendered necessary in consequence of the amendment which had been made in the definition of "holding," the effect of which would be to diminish the total number of holdings in Municipalities. There was some danger in retaining the words in the first part of the proviso:—"The total sum to be raised by the tax in any year shall not exceed the sum which would be produced by an average rate of two rupees and four annas per annum for each holding."

The Hon. the Advocate-General said that he thought the amendment unnecessary, because the definition of "holding" did not apply to clause (*a*) of section 84, which imposed a tax upon persons according to their circumstances, and not to the rating of immoveable property.

The motion was put and agreed to, and the section as amended was passed.

The Hon. Mr. Dampier moved that the following paragraph be inserted after the first proviso in section 100:—

"And, further, that where the actual cost so ascertained shall exceed one lakh of rupees, the percentage on the annual value to be levied in respect of so much of the cost as is in excess of one lakh of rupees shall not exceed one-fourth of the percentage determined by the Commissioners under section 101."

He said that this amendment was before the Council at the last meeting, and he promised, with the help of certain Hon. Members, to collect what figures he could to satisfy the Council as to the effect of the amendment on the income of Municipalities. The time which he had had was very short, but the papers which were in his hands were available to Hon. Members who wished to look at them. The conclusion to which he had come was, that it was desirable to put the amendment to the Council. A maximum of assessment on buildings was imposed by the proviso to section 100 as the Bill now stood, and such lower maximum as his amendment proposed would have been unnecessary if anything like an appeal had been provided against over-assessment. The ordinary mode of taxation provided in the Bill was an assessment on the annual value at which holdings might be expected to let. If an appeal had been provided, the Commissioners would have had thrown upon them the onus of showing that the particular holding might reasonably be expected to let at the amount at which they had valued it, and then no further precautions would have been necessary. But there was no appeal, and the valuations upon which some Government buildings had been assessed as being the amounts at which they might reasonably be expected to let were absurd: therefore he thought some check to over-assessment should be imposed in the Bill. The proviso as it stood imposed a limit of taxation so much higher than the actual amount of taxation in general at the present time that he thought that limit would be practically useless as a protection against over-assessment. The effect of the proposed amendment would be to lower the maximum, and in his judgment this further proviso was necessary.

The Hon Chunder Madhub Ghose said the Council would observe that the proviso in the Bill as it now stood was not contained in the present law, which simply provided, as in the first paragraph of the section in the Bill, that the gross annual value at which a holding might be reasonably expected to let should be the annual value thereof, the letting value being taken in

every case to be the *primâ facie* standard on which the assessment should be made. The proviso in the Bill would only come into operation in the event of a dispute arising between the Commissioners and the owner of a holding as regards the real letting value of the holding, but in 99 cases out of 100 the letting value would be taken as the standard. It was only in cases of dispute, that 7½ per cent. on the actual cost of erection of a building would be taken as the letting value. Therefore there seemed to be no cause for apprehension that the proviso would operate injuriously either on the Government or a private individual. But it might be that in the case of large buildings, in regard to which a man had not to pay the same amount as if there were a number of small holdings in the same area, the proviso would work prejudicially. It was from this point of view that he would agree to the amendment before the Council, with the modification that the percentage should be raised to one-half. He must, however, say that the figures which the Hon. Member had placed before the Council were not very satisfactory, and he wished more time had been given to examine them, but on a cursory glance of those figures he was not satisfied that the amendment would not result in a falling off to an appreciable extent of the present revenues of the Municipalities. If the modification he had suggested did not meet the approbation of the Council, he would throw out for consideration another proposal: to remove the hardship of the valuation being taken on the original cost of the building, the valuation might be put at 7½ per cent. of the cost, *minus* the amount of depreciation and the cost value of repairs.

The Hon. Mr. Dampier said, if the proposal to deduct the amount of depreciation from the cost of a building commended itself to the Council, he would not oppose it.

The Hon. Harbuns Sahai said he was entirely opposed to the amendment. The figures which had been just supplied to the Council, he must confess, were not very satisfactory, and on those figures he was unable to form any judgment. They did not supply the material and data necessary to come to a correct conclusion. The reason of his opposition to the amendment was that, as a general rule, the annual rent at which any holding might reasonably be expected to let should be taken as the annual value. It was only when the cost of erection could be ascertained or estimated that the annual value of a building was to be taken at a value not exceeding 7½ per cent. on the cost, in addition to a reasonable ground rent. It was not in every case that the Commissioners would ascertain or estimate the cost of erection, but in cases where it was practicable it would be used as a check on the annual letting value. Therefore, he thought the section as it stood was better than the amendment proposed. He did not think the bearing of section 100 was entirely understood.

The HON. THE ADVOCATE-GENERAL said that section 100 first referred to holding, and holding meant land. In cases where there were buildings, there would be a further assessment: there was nothing in the section to indicate that the proviso would only take effect where there was a disagreement about the valuation.

The HON. MR. REYNOLDS said the amendment before the Council, he understood, was the amendment of the Hon. Member on his left (Mr. Dampier). He was ready to admit the fairness of the principle of the amendment, namely that when the valuation exceeded a certain sum, which was proposed to be taken at Rs. 1,00,000, then the percentage on the sum in excess should be less, but he was in considerable doubt whether three-fourths was not too large a reduction to make. He understood that the Hon. Mover was not willing to accept the suggestion of the Hon. Member (Babu Chunder Madhub Ghose) that the reduction should be one-half, but he might accept a valuation of one-third on the cost of erection in excess of Rs. 1,00,000. If he accepted that modification, the HON. MR. REYNOLDS would vote for the amendment.

The HON. MR. DAMPIER said that, as far as he could gauge the sense of the Council, he thought he should not be justified in retreating from one-fourth to one-third.

HIS HONOR THE PRESIDENT said there were practically three proposals before the Council, but they only referred to the percentage which should be taken—whether one-half, one-third, or one-fourth—as the basis of valuation when the cost of a building exceeded Rs. 1,00,000. He would put the amendment as it stood in the name of the HON. MR. DAMPIER first, which was as follows:—

"And, further, that where the actual cost so ascertained shall exceed one lakh of rupees, the percentage on the annual value to be levied in respect of so much of the cost as is in excess of one lakh of rupees shall not exceed one-fourth of the percentage determined by the Commissioners under section 101."

The motion was carried on the following division:—

Ayes 7.	*Noes* 4.
The Hon Mr. Miller.	The Hon. Kumar Boykantonath Dé.
" Mr. Beverley.	" Chunder Madhub Ghose.
Colonel the Hon. S. T. Trevor.	" Harbuns Sahai.
The Hon. Mr. Reynolds.	" Mr. Macaulay.
" Mr. Dampier.	
" the Advocate-General.	
" " President.	

[MR. MACAULAY voted subject to the introduction of an amendment fixing the reduction at one-third.]

The Hon. Mr. Beverley said that, while discussing this section, he would like to take the sense of the Council on the question of allowing for depreciation in the value of a building. The question had been raised by the Hon. Member on his left (Babu Chunder Madhub Ghose), but he was not prepared to press his amendment on the point. With the permission of the Council, Mr. Beverley wished to transfer the amendment to his own name, and moved to insert the words "less the amount of depreciation" after the word "cost" in the 7th line of the first proviso. He thought for himself that the proviso should be restricted to the valuation of buildings, and that no reference should be made in it to the land. But he would not press that point if the Council would agree to make an allowance for depreciation.

The Hon. Mr. Reynolds said he was not prepared to accept the amendment, as he was not sure what the effect of the amendment, if it omitted all reference to land, might be. The amendment would be altogether opposed to the principle on which the proviso was based. The first mode of ascertaining the value of a holding was its letting value, and in that way depreciation would be taken into account; but if the owner was not satisfied with the decision of the Commissioners as to the letting value, he was at liberty to have recourse to the mode of valuation prescribed in the proviso, and that necessitated that the assessment should be on the actual cost of erection. Great advantage had already been given to owners of buildings by the amendment which had just been passed, and he should not have supported it if he had known that this further amendment, allowing a reduction on account of depreciation, was to be proposed. The Hon. Member who had originally suggested this amendment told the Council that it was proposed by him as an alternative to the amendment of the Hon. Mr. Dampier, and therefore to pass it now in addition as a further reduction from the ascertained or estimated cost of a building would not be right. Mr. Reynolds, therefore, could not agree to the amendment.

The Hon. the Advocate-General said he thought the amendment very fair. The life of a building in this country, and especially of mills and manufactories, was not very long. He therefore thought it fair that an allowance should be made for depreciation.

The Hon. Harbuns Sahai remarked that, as he had said before, he thought the case was covered by the words "the gross annual rent at which a holding might be expected to be let." A building which had been recently erected would command a higher rent than one which had undergone some depreciation. If the owner objected that the assessment was not made on the amount at which the building might be expected to be let, there was the option given to him of having the assessment made on the cost of erection.

The motion was then put to the vote and negatived on the following division:—

Ayes 4.	*Noes* 7.
The Hon. Mr. Miller.	The Hon. Kumar Boykantonath Dé.
,, Mr. Beverley.	,, Chunder Madhub Ghose.
Col. the Hon. S. T. Trevor.	,, Harbuns Sahai.
The Hon. the Advocate-General.	,, Mr. Macaulay.
	,, Mr. Reynolds.
	,, Mr. Dampier.
	,, the President.

Section 100 as amended was then agreed to.

Sections 1 to 5, and the Preamble and Title of the Bill were agreed to.

The Council was adjourned to Saturday, the 29th March.

Saturday, the 29th March 1884.

Present:

His Honor the Lieutenant-Governor of Bengal, *President.*
The Hon. G. C. Paul, C.I.E., *Advocate-General.*
The Hon. H. L. Dampier, C.I.E.
The Hon. H. J. Reynolds.
The Hon. C. P. L. Macaulay.
Colonel The Hon. S. T. Trevor, R.E.
The Hon. H. Beverley.
The Hon. A. B. Miller.
The Hon. Harbans Sahai.
The Hon. Chunder Madub Ghose.

BENGAL MUNICIPALITIES.

The Hon. Mr. Reynolds said:—I have the honour to move that the Bill to amend and consolidate the law relating to Municipalities be passed. The Bill has occupied the attention of this Council for the greater part of two sessions; it has been very fully discussed both in Select Committee and in the debates which have taken place in this Council-room; and its provisions have been subjected to careful criticism from local Chairmen of Municipalities and from the general Public. I think I may with some confidence ask this Council to pass the Bill as a measure which is calculated to supply a practical and workable scheme of Municipal administration, on the basis of self-government by the people through their elected representatives. On this question of representation I desire briefly to refer to a memorial which was presented by

some members of the Muhamadan community, who seem to think that the scheme proposed in the Bill will not afford sufficient scope for a proper representation of their interests. It would, I think, be a mistake, as a matter of principle, to adopt any plan of separate representatives for different classes of the Public. It is not desirable to accentuate such distinctions, and I see no reason to doubt that the Muhamadans will be represented in due proportion to their numbers and intelligence. If in any case this proportion should not be maintained, it will always be in the power of the Government, which nominates one-third of the Commissioners, to redress the inequality and restore the proper balance. The principle of the Bill is to leave the utmost freedom of action to the Municipal authorities, so long as that freedom is wisely and rightly used. I am not so sanguine as to suppose that cases will never occur of the abuse of the power which this Bill places in the hands of the Municipal Commissioners. But I think that both reason and experience justify us in believing that such cases will not be numerous; that they will become less and less frequent as the principle is recognized, and the lesson learnt, that powers of this kind are a trust for the public good and the common welfare; and I would remind the Council that the provisions of the Bill afford ample security that any partial failures which may attend the earlier period of its working shall not result in serious or permanent injury to the interests which the Bill is designed to protect and encourage. I trust, therefore, that the Council will agree to the motion which I have now the honour to submit.

The motion was put and agreed to and the Bill as amended was passed.

AMENDMENT OF CALCUTTA MUNICIPAL ACT.

The Hon. Mr. Macaulay moved that the Bill further to amend the Calcutta Municipal Consolidation Act, 1876, be taken into consideration.

The motion was put and agreed to.

The Hon. Mr. Macaulay moved that the Bill be passed.

The motion was agreed to and the Bill passed.

HOWRAH AND SUBURBAN POLICE.

The Hon. Mr. Reynolds moved that the Bill to enable the Municipal Commissioners of Howrah and the Suburbs of Calcutta to contribute towards the cost of the Police employed in those Municipalities be passed.

The motion was put and agreed to and the Bill passed.

LOCAL SELF-GOVERNMENT.

The Hon. Mr. Macaulay presented the preliminary report of the Select Committee on the Bill to extend the system of Local Self-Government in Bengal.

In doing so he said:—I desire, on behalf of the Select Committee, to offer a brief explanation upon two points. The first relates to the form of our report. We have purposely abstained from reporting exhaustively upon the Bill. We understand that the Bill was remanded to us merely that it should be so recast as to conform to the orders of the Secretary of State in regard to the system of control,—that the obstacle, in fact, which has hitherto stood in the way of its being reported upon by public officers and public bodies should be removed. We have generally confined ourselves to this duty, except so far as arrangement and phraseology called for alteration. One new matter indeed we have considered which is unconnected with constitution and control—new, that is, as regards the original Bill, but not new as regards the existing Cess Act. This is a proposal of our Hon. colleague, Colonel Trevor, to appoint an Inspector of Local Works in each division, to be paid for by the various District Boards. I may say that we are not agreed upon this proposal, but we have decided to admit it in order that it may be fully discussed. Beyond this we have not specially examined the details of the powers and duties of the authorities under the Bill. We apprehend that it would be premature for us to make even a preliminary report on those details until they have been subjected to that criticism which it was the object of the publication of the Bill last session to invite. Our report therefore is practically a preliminary report upon a part only of the Bill. The second point relates to the extent to which we have found it possible to conform to our instructions. As I informed the Council upon a previous occasion, the suggestion of the Secretary of State was that the District Boards should be controlling, and not administrative, bodies. Now it would have been an easy matter to carry out that suggestion had there been any prospect of a regular system of Local Boards being established in every district in the Province. As a matter of fact, however, there are districts in which not more than one Board could be established with any advantage, and in such cases it is obvious the Board must be wholly an administrative Board. The plan adopted, therefore, has been, first to provide for a District Board in every district, and then to provide that, where a Local Board has been established, all or any of the administrative functions of the District Board may be entrusted to it. The District Board will thus be a controlling body, where there are any subordinate bodies for it to control. As there is no motion before the Council, and as, consequently, my Hon. colleagues will have no opportunity of speaking upon the matter regarding which I am now addressing them, it would be unbecoming in me to make any observations to-day upon the general policy of this measure. I think, however, that I may at once claim the sympathy of the Council, and take hope for the future, from the incidents of our proceedings this day. At the commencement of last session two measures of kindred character were projected. One was committed to the able guidance of my Hon. friend Mr. Reynolds: the other was entrusted to me. Their fates so far have been very different.

The Hon. Mr. Macaulay.

The same day which has seen the Municipal Bill leave this Chamber with the impress of the assent of its Members, has seen the Local Self-Government Bill only re-enter it. We have heard my Hon. friend claim with just pride to have carried through the Council a sound and workable scheme of municipal administration, based upon the principle of representation. My labours may be said to have but commenced. Those of my Hon. friend are over,—like Antenor after his wanderings, "*nunc placidâ compostus pace quiescit.*" But, Sir, the acceptance of the one measure by this Council is a matter of happy augury for the future of the other, and while sincerely congratulating the Council and my Hon. friend upon the passing of this important measure of municipal reform, I can indulge a confident hope that in the coming session my Hon. colleagues will address themselves to the consideration of the measure in my charge with the same assiduity and with the same enlightened and liberal spirit which have characterised our recent debates, and that, under your guidance and with their support and assistance, I shall be enabled to carry it to an equally successful and an equally gratifying conclusion.

The Council was then adjourned.

Reg. No. 751G—200—5-5-84.

PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

Saturday, 6th December 1884.

Present:

His Honor the Lieutenant-Governor of Bengal, *President.*
The Hon. A. Phillips, *Acting Advocate-General.*
The Hon. H. J. Reynolds.
The Hon. C. P. L. Macaulay.
The Hon. A. P. MacDonnell.
Colonel the Hon. S. T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. Moulvie Abdul Jubbar.
The Hon. Chunder Madhub Ghose.
The Hon. A. B. Miller.
The Hon. Kumar Boykantonath De.
The Hon. Rai Joy Prokash Lall Bahadoor.
The Hon. G. Irving.

STATEMENT OF BUSINESS BEFORE THE COUNCIL.

His Honor the President said—Gentlemen, there is no particular business before the Council to-day, but only a formal notice to add one or two Members to the Select Committee on one of the Bills now before the Council on account of changes which have taken place in the constitution of the Council since we last met. But, as is usual in the case of the first meeting of this Council, I take the opportunity of bringing before you those measures which in all probability we shall have to consider during this Session. The first of these is with reference to a Bill already before the Council, referring to Local Self-Government. As the Council are aware, there are two measures connected with

this subject, one of which has already become law, namely, that referring to the system of municipal administration in our towns, and I may take this opportunity of saying that, so far as reports have already reached us regarding the operation of the elective system in more than a hundred Municipalities in the country, we have the satisfaction of being able to say that they have been conducted with very general success. Not only has there been an absence of anything like disorder or disturbance, but we find that in almost every place great and animated eagerness has been shown for the privilege of securing a seat on the Municipal Board; that the number of cases in which there have been contested elections has been numerous; that the elections have been carried out with general satisfaction to the people; and that, where dissatisfaction has been expressed, it has been rather in a feeling of disappointment of those who have not been able to find a place on the Municipal Committees. All this I think speaks satisfactorily for the inauguration of the new system of Municipal Administration in these Provinces.

The Bill which has still to be passed, if it does pass into law, is that with reference to the extension of Local Self-Government in our districts, a system for the establishment of Local Boards and Local Unions. That Bill has been already referred to a Select Committee, and, as many Members of the Council know, we have received a preliminary report upon it from the Select Committee at the close of our last Session. The report then submitted, together with the revised Bill, has during the recess been circulated to all Commissioners and other local authorities for an expression of their opinion. Those reports I understand have now all been received, and they will be submitted to the Council and to the Select Committee (to be enlarged now under the next motion to be submitted) for consideration in connection with the Local Self-Government Bill, and I may express the hope that by the end of January next the Select Committee will be able to submit a final report, and that, before the Session comes to an end, we shall be able to put on the Statute Book an Act for establishing the system of Local Self-Government throughout Bengal.

Then there is a small measure in connection with which a Bill will be introduced to consolidate the existing enactments in regard to Ferries. This Bill is necessitated by changes in the practice which now obtains in the administration of ferries, and particularly with reference to the Local Self-Government schemes, in which the intention is to transfer the management of ferries generally to the control and supervision of Municipalities and Local Boards and other such institutions. This Bill, like the Local Self-Government Bill, will be in the charge of my hon. friend Mr. Macaulay.

Next the necessity for legislation comes before us in connection with the circumstances involved in the construction of large new docks at Kidderpore, which necessitate an amendment of the Calcutta Port Improvement Act. This question has also been under the consideration of Government during the last few months, and on a reference to my learned friend the Advocate-General, I mean Mr. Paul, who is now absent, it was submitted by him, as his opinion, that the provisions of the existing law do not include the construction of such works as the proposed docks at Kidderpore; and again, that the provisions gov-

The President.

erning the borrowing powers of the Port Commissioners, and the security afforded to the present debenture-holders, also require alteration, as at present there are two Acts relating to the Commissioners for the Improvement of the Port of Calcutta, namely, Bengal Acts V of 1870 and IV of 1880, which at present need amendment. It will probably be found convenient to consolidate these Acts into one comprehensive measure, and to take powers to enable the Port Commissioners to carry out these large works of very great importance to the Port of Calcutta, to which I have already referred, I have asked my hon. friend Mr. Reynolds, who is Chairman of the Port Commissioners, to take charge of this Bill, and we can have the assurance that from his accurate knowledge of all the details of the subject, we shall have most valuable assistance in carrying the Bill to a successful issue.

There are two important measures to be presented to the Council which are connected with the Revenue Department of the Government—one is a Bill for the registration of tenures in land; and the second is a Bill for the reorganization of the ancient system of village accountants, who are known to us under the name of the *putwaries* and *canoongoes* of the old Regulations. Hon Members are probably aware that we have in the law of 1876, passed by this Council, an Act which regulates and governs the registration of proprietary estates and proprietary interests in land, but we have nothing which deals with anything below that. On all sides there is a general consensus of opinion that the time has now come when we may proceed to legislate further for the registration of tenures, and the regulation of all subsidiary titles below that of the zemindar and above that of the ryot. I may mention in saying that there is a general unanimity of opinion on the subject; that my learned friend Sir Richard Garth, the Chief Justice of Bengal, with whom I am sorry to find that I differ on many points in connection with the Tenancy Bill now before the Legislative Council of the Government of India, has on this point expressed a very decided and confirmed opinion as to the necessity of such legislation; and with your permission, I will just read a few words which are taken from a note of his, which has already been published, bearing upon this point. He expresses his cordial concurrence with the recommendations which I had the honour to make to the Government of India upon this subject, and his pleasure in finding that it is intended that a registration law should be passed in aid of, or in connection with, the Tenancy Bill. Though I need not read all he has written on the subject, I would ask attention to the following prominent paragraph of his note:—

"Let the proprietors and tenure-holders of every estate be duly registered either in the zemindar's sherishta or in any Government office; let no one but the registered landlords (and I suppose he would also say tenure-holders) be entitled to recover rent from the tenants or ryots; let the tenants or ryots on the other hand be bound to pay their rents to the registered landlords, and to no one else; and let the receipts of those landlords be a good discharge for the rent A law of this kind, well devised and enforced, would, I am satisfied, be the greatest possible blessing to the agricultural community; it would relieve landlords from most of the difficulties under which they now labour in collecting their rents, and it would relieve tenants, and especially ryots, from the hardship which they continually undergo of having to pay their rents twice over."

It has been computed that there are about a million tenure-holders throughout Bengal. We desire therefore such a law not only in the interests of the general administration, but in the interests of those who have rights in the land. One point which I shall briefly allude to is that, if we can secure such a Bill as will provide for the correct registration of tenures throughout the country, it will also help us very much in that direction in which zemindars everywhere are very keenly interested, namely, the easier recovery of their rents and dues. Until tenures are registered, we cannot give them that assistance; but once we have a proper record of tenures throughout Bengal, there will be no difficulty, but the greatest facility in providing means which will promote the prompt realization of rents I commend therefore this Bill to you in the assurance that it will receive your careful consideration, and that, if the Tenancy Bill which is now under the consideration of the Government of India, is passed on the lines on which it is thought it may be passed, this Bill will be a very useful complement to the legislation which will be passed in the other Council.

The other measure to which I have alluded in connection with our revenue administration is required, as I have said, for the reorganization of the system of *putwaries* and *canoungoes*. All I need say now in reference to that measure is that it is a necessary supplement and a corollary to the Tenancy Bill. We contemplate here to take the first steps towards a proper cadastral survey of all estates and holdings in Behar, and a proper record of rights wherever such survey is made. Everyone is aware, and will admit, that with the completion of a work of such magnitude as a cadastral survey of any part of Bengal, and the completion of a record of rights, we also want an agency competent and trustworthy for the adequate maintenance of that record. If you carry out such a survey, and if you establish a record of rights and have no such agency, in the course of two or three years the whole advantage of a measure which will involve large expenditure and a great deal of trouble will be lost to the country, and our desire is to secure by legislative enactment the establishment of a proper agency, which shall provide chiefly for the maintenance of that record which it is the intention of the Tenancy Bill to carry out; and although it may be a work which may last for many years, I am satisfied that, until we secure the results of that work, we shall have no settlement of the disputes and litigation which are now so common. In support of the view I advocate, I may be allowed to quote an expression of opinion from one who rightly enjoys the position of a very high authority in such matters—I mean Sir Louis Mallet—who, in writing on the subject of revenue administration in India, makes these forcible remarks. He says—"If there is anything that is wanted in India in any investigation of Indian problems, it is an approach to trustworthy and generally accepted facts. There is hardly a subject upon which the authorities do not absolutely disagree as to the fundamental facts." And he goes on at greater length to argue against the repugnance constantly felt in India to the adoption of any adequate measures for the collection of a comprehensive and well digested set of facts as to the recognition of general principles. That which

The President.

we now want for Bengal I may say prevails throughout every other Province in India. Even Burma, our latest acquisition, has partly got, and is still extending, a correct survey and record of rights, and a well organised establishment to maintain that record. In Bengal it is a reproach to the Government, rather than to any one else, that though it is more than ninety years since the Permanent Settlement, we have done absolutely nothing to secure anything like an authoritative, statistical record of detailed revenue administration; and in my opinion, even at this late hour, it is urgently necessary to begin the work. I may in conclusion, with reference to this particular object, say that in the course of the next few weeks we shall have established a department of Agriculture in Bengal. It will be one of the duties of that department, and of the able gentleman whom we are going to place at the head of it, to organize executively the arrangements which we may be able to carry out by the kind of legislation I have referred to; and though it will be a matter of slow growth, still I have no doubt in my own mind that its good results will soon be apparent, and that we shall all—zemindars, tenure-holders and ryots included—recognize the great importance of a law which shall place this difficult subject on a sure and satisfactory footing.

There are one or two minor Bills to which I need not make any special reference. It is possible that before the end of the Session I may call attention to the necessity for legislation in connection with the improvement of the chowkidaree system in Bengal. That also is a subject which has been under the investigation of a very competent Committee, and their recommendations are still under the inquiries of our local officers. If their replies should come before us before the end of the Session, I may have to submit proposals for the improvement of our village constabulary and rural police, to be formulated in a new law amending the present Act of 1870.

In thus placing before you the brief outlines of the Bills which will engage our attention during the next few months, I am sure I shall receive from Hon. Members the assistance which the Government has always received in this Council of a careful and independent consideration of its recommendations, and I hope when the Session closes, I shall be able to congratulate you in having placed on the Statute Book several useful and beneficient measures.

I may mention that the Bill for the registration of tenures will be in charge of my hon. friend Mr. Reynolds, and the Bill for the organization of the *putwari* system will be in charge of my hon. friend Mr. MacDonnell.

The Hon Mr. Macaulay moved that the Hon. the Acting Advocate-General, the Hon. Mr. Garrett, and the Hon. Moulvie Abdul Jubbar, be added to the Select Committee on the Bill to extend the system of Local Self-Government in Bengal.

The motion was put and agreed to.

The Council was adjourned to Saturday the 13th instant.

Saturday, 13*th December* 1884.

Present:

His Honor the Lieutenant-Governor of Bengal, *President.*
The Hon. A. Phillips, *Acting Advocate-General.*
The Hon. H. J. Reynolds.
The Hon. C. P. L. Macaulay.
The Hon. A. P. MacDonnell.
Colonel the Hon. S T. Trevor, R.E.
The Hon. C. B. Garrett.
The Hon. Moulvie Abdul Jubbar.
The Hon. Chunder Madhub Ghose.
The Hon. A. B. Miller.
The Hon. Kumar Boykantonath De.
The Hon. Rai Joy Prokash Lall Bahadoor; and
The Hon. G. Irving.

REGISTRATION OF PERMANENT TENURES.

The Hon. Mr. Reynolds moved for leave to introduce a Bill to provide for the registration of permanent tenures. He said:—You explained, Sir, on the last occasion of the meeting of this Council, the objects which this Bill is intended to attain, and its intimate connection not only with the legislation now before the Council of the Governor-General on the subject of landlord and tenant, but also with the question of the performance of a long neglected duty—the establishment and maintenance of a record of rights throughout these Provinces. On this occasion it is only necessary that I should put before the Council the outlines of the scheme by which the Government proposes to effect the objects which it has in view. It is the desire and the intention of the Government to redeem to the utmost the promise which has been made to the zemindars that facilities shall be given them for the realization of their acknowledged rents. Of these rents a large proportion consists of the rents of tenures, and the experience of the working of the *putnee* sale regulation has shown that nothing so effectually secures the punctual payment of rent as a power of summary sale, without the formalities and delays of a suit, whenever the rent is allowed to fall into arrear. It would be impossible, however, for the Government to extend the *putnee* sale procedure to permanent tenures in general, unless such tenures were first registered: and the registration must be not merely in the *serishta* of the zemindar, but a registration in a public office, with proper securities for the interests of all parties concerned. Such a system of registration it is the object of this Bill to introduce.

For the scheme of the Bill, I have been much indebted to the report on the Tenancy Bill by Mr. R. C. Dutt, Collector of Backergunge, and to an

The Hon. Mr. Reynolds.

excellent little pamphlet by Baboo Mohini Mohun Roy, in which he has sketched a plan for the registration and summary sale of tenures, and has also offered some valuable suggestions for simplifying the procedure of the courts in the trial of rent suits. The general proposals of the Bill will be as follows:—Applications for the registration of tenures are to be made to the Subordinate Judge, and may be made by either the zemindar or the tenure-holder. Notice of application will be given to the other party concerned, and also a general notice to all persons interested in the disposal of the case. If it is found that there is no dispute upon any material point regarding the conditions on which the tenure is held, the tenure will be at once admitted to registration: if there are disputes which cannot be summarily settled, issues will be framed and decided as in a regular suit. Whether the register should be kept up by the Court or by the Collector is a point upon which the scheme of the Bill differs from Baboo Mohini Mohun Roy's proposals. The Baboo thinks that the Subordinate Judge should not only decide the disputes, but should keep up the register in his own office. But it appears to the Government that the Collector's office is the proper place for a register of tenures, in the same way as the Collector is the officer who keeps the register of estates. The Bill accordingly provides that when a tenure has been admitted to registration, the Subordinate Judge shall send the necessary particulars to the Collector, who will thereupon enter the tenure in his register.

The provisions for the maintenance of the register by the mutation of names in cases of transfer and succession will be embodied in the Bengal Tenancy Bill now under consideration by the Select Committee. Till the report of the Committee is published, I am not at liberty to say what those provisions are likely to be; but I have little doubt that any plan which the Committee may adopt can be made to fit in perfectly well with the scheme of this Bill. If the Select Committee were to recommend that transfers should be made only by a registered instrument or a public sale, it would be easy to provide that the registering officer, or the officer conducting the sale, shall notify the transfer to the Collector, and that the Collector, if no objections are offered by the parties concerned, shall make the necessary mutation of names.

The next point to be considered is whether this registration of tenures shall be made compulsory, or shall be left optional. There is no doubt much to be said in favour of compulsory registration. For statistical purposes a compulsory system is necessary, as, whatever advantages registration may offer, we cannot hope to get a complete list of tenures unless we not merely permit, but require, all tenures to be registered. On the other hand, we are acting at present on imperfect information: we have only an approximate knowledge of the number of tenures in Bengal: we cannot judge of the proportion of cases in which entries are likely to be disputed, and we risk the danger of the scheme breaking down, if we attempt at once to fix a period within which all tenures must be brought under compulsory registration. On the whole, the Government considers it the safer course to adopt the recommendation of Baboo Mohini Mohun Roy, and (in the first instance at least) to make it optional with

the parties to register their tenures or not. The Baboo thinks that this option will be largely used. "People," he remarks, "will readily come forward to register their own tenures and tenures held under them. Registration offers manifest advantages to both landlord and tenant, which will be quickly perceived and eagerly availed of." I agree with him in thinking that, under an optional system, a large number of applications will be made, but I should expect a much greater proportion to come from the landlords than from the tenants.

The Government, however, does not abandon the hope that a system of compulsory registration may eventually be found possible: and the Bill will therefore give the Government power to declare that all permanent tenures, within a local area to be specified in the notification, must be registered within a certain limit of time, in the same manner as proprietors were required to be registered by the Bengal Land Registration Act of 1876. Where this Chapter of the Bill is in force, the general procedure of the Land Registration Act would be followed, and one local area after another would be brought under the operation of the Chapter, till in the end the compulsory system had been introduced throughout the whole of the Lower Provinces. In such local areas, registration would be enforced by a section disqualifying unregistered tenure-holders from suing for rent.

Such is the general scheme of the measure I ask leave to introduce—a system of optional registration in the Collector's office under orders passed by the Subordinate Judge, with power to the Government to declare that in any local area registration shall henceforth be compulsory. The Government is fully aware that the duty which it thus proposes to undertake is one of great magnitude and considerable difficulty. Judging from the returns, incomplete as they probably are, furnished by the Road Cess papers, the number of tenures in Bengal considerably exceeds one million; and even under a system of optional registration, the work of dealing with the applications which will be made will impose a heavy burden on judicial and executive officers. But it is important to the well-being of these Provinces that the difficulties should be surmounted, and that the labour should be undergone. The registration of tenures is an essential element in the compilation of those agricultural statistics without which the Tenancy Bill will be an incomplete and unfruitful measure; it is to the registration of tenures that we must look for a large mass of useful information for the settlement of disputes, for the quieting of titles, and for the punctual realization of rents. And it will perhaps be found that the difficulties, serious as they may be, are not greater than can be overcome by diligence and method. When the Cess Act of 1871 was under discussion in this Council, it was confidently predicted that the scheme would be found to be unworkable. When the Land Registration Act of 1876 was introduced, it was said that the definition of the interests of all proprietors of land would prove an impossible task. We know now that these apprehensions were unfounded, and our experience of what has been done may well give us courage in attempting what remains to do.

The Hon. Mr. Reynolds.

I now move for leave to introduce the Bill, and, if leave is given, I hope that the Bill, the first draft of which is already in print, will be in the hands of Hon. Members before the next meeting of the Council.

The motion was put and agreed to.

SUBURBAN WATER-SUPPLY.

The HON. MR. REYNOLDS moved that the Hon. Messrs. Garrett and Irving be added to the Select Committee on the Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta.

The motion was put and agreed to.

The Council was adjourned to Saturday the 20th instant.

Saturday, 20th December 1884.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President.*
The HON. A. PHILLIPS, *Acting Advocate-General.*
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
The HON. A. P. MACDONNELL.
Colonel the HON. S. T. TREVOR, R.E.
The HON. C. B. GARRETT.
The HON. MOULVIE ABDUL JUBBAR.
The HON. CHUNDER MADHUB GHOSE.
The HON. A. B. MILLER.
The HON. KUMAR BOYKANTONATH DE.
The HON. RAI JOY PROKASH LALL BAHADOOR; and
The HON. G. IRVING.

REGISTRATION OF PERMANENT TENURES.

The HON. MR. REYNOLDS introduced the Bill to provide for the registration of permanent tenures, and moved that it be read in Council. He said:—The explanation which I gave last Saturday of the scope and objects of this Bill seems to render it unnecessary that I should do more on the present occasion than invite the attention of the Council to the Bill which has been circulated to Hon. Members, and ask them to compare its provisions with the statement I made on that occasion. The Bill, after a few preliminary sections, which are taken up with the necessary definitions, is divided into three Chapters. The first Chapter relates to the procedure to be adopted in places in which registration is optional. It provides that application may be made for the registration of tenures either by proprietors of land or tenure-holders, and that it should be made to the Subordinate Judge; and then it makes provision for due notice to

be given to all persons concerned to file any objections which they may wish to put forward; it provides also for summary decision in cases which admit of their being summarily decided, and for the framing of issues for regular decision on such points as are in dispute, and cannot be settled in any other way. The second Chapter prescribes the nature of the registers to be kept by the Collector, and this Chapter applies to registration, both in cases in which registration is optional, and also in local areas in which registration may possibly be made compulsory. The Chapter, as I said, provides for the nature of the registers to be kept up, and it also contains provisions for what is to be done to carry out the mutation of names, in cases of transfer and succession. And with regard to this provision I wish to invite the attention of Hon. Members to sections 25 to 30 of the Bill, and to point out that those sections provide, in the case of the mutation of names, for just as much facility and opportunities being given for putting forward and the hearing of objections, as in original cases of applications for the registration of the tenure itself. From what has passed in another place, I understand that some landlords have felt apprehensions that, under the cover of the mutation of names, claims and documents may be put forward transferring tenures and containing stipulations and conditions which the zemindars might not be inclined to acknowledge, but which nevertheless, unless they objected to them in time, they might be considered to have acquiesced in. These sections therefore provide that, in the case of mutation of names, full opportunity shall be afforded for objections to be made and decided. Then Chapter III provides for the procedure in local areas in which the Local Government may declare that registration shall be compulsory, and these provisions are mainly based on what I may call the corresponding sections of the Bengal Land Registration Act (VII of 1876). The Government is disposed to attach much importance to this measure as a necessary complement to the provisions of the Bengal Tenancy Bill. If, indeed, we possessed in the Lower Provinces a complete record of rights, such as has been framed in other parts of Northern India, it might not be necessary to legislate specially for the registration of one class of tenancies. Possibly some of the present generation may survive to see the day when we shall have in every village and estate of Bengal a record of the rights and interests of every class of the agricultural population, from the zemindar down to the humblest tenant. But that time, though it may one day come, is certainly still very distant. The work will be one of great labour and expense, and the agency for establishing and maintaining the record has still to be created. In the meantime this Bill will in some measure supply, for one numerous and important class of tenancies, what I hope may eventually be attained for all. The registration of permanent tenures will afford much valuable information regarding the economic conditions of the country, the different gradations of landlords, and the extent to which sub-infeudation has been carried; it will facilitate the settlement of many disputed questions; and it will enable the Government to afford substantial assistance to proprietors in the recovery of their rents.

The Hon. Mr. Reynolds.

The Hon. Joy Prokash Lall said:—I beg with the permission of the President to make a few observations on that section of the Bill which contains a definition of "permanent tenure." Your Honor must be aware that there are in Behar occupancy rights which are heritable and by custom transferable. Then there is the *guzashta* tenure, which is heritable and also transferable, but liable to enhancement of rent. These rights are not yet recognized by law; the people of Behar would therefore wish to know whether this Bill will treat such tenure-holders as *mokuraridars* and *muafidars*, and the like. But if the Bill goes further than that, and the tenures to be affected are not well defined, great litigation and expense will follow, and both the Government as well as the people will be affected. I have nothing further to urge, except to repeat that the nature of the tenures in Bengal and Orissa are different from those in Behar.

The Hon. Mr. Reynolds said in reply:—I understand the Hon. Member not so much to object to the provisions of the Bill, as to complain that some of the definitions contained in it are not sufficiently clear and precise. With regard to what he said on the question of *guzashta* tenures, I would ask him to refer to the definition of "tenure" which has been drafted in accordance with the Land Registration Act of 1876, as including every interest in land, except estates and the interests of raiyats or under-raiyats. Now, as I understand, these *guzashta* tenants are admitted to be raiyats, although raiyats having rights and privileges, such as fixity of tenure and perhaps also fixity of rent; but I never understood that it was claimed for them that they possessed any other rights than those of raiyats. In that case it is clear that they will not come under the definition of the Bill at all. But there are holders of other tenures to which I understand the Hon. Member to refer, such as *mokuraridars* and *muafidars*, which do come under the definition. Tenures, such as *ijaras*, which are not of a permanent nature, do not come under it.

His Honor the President said:—I understand the Hon. Member to say that his objections rather refer to the circumstances and condition of things in Behar, as being different from those in Bengal, and that possibly, unless those circumstances and conditions are borne in mind, there might be a difficulty as regards the particular definition of "tenure" in this Bill. The Hon. Member also referred to certain special tenures in Behar, but from the difficulty I experienced in hearing what he said, I am not in a position to discuss the question. As, however, the name of the Hon. Member is proposed to be placed on the Select Committee to which the Bill will be referred, no doubt the objections which he suggests will be fully considered in Committee.

The motion was then put and agreed to, and the Bill referred to a Select Committee consisting of the Hon. Mr. MacDonnell, the Hon. Mr. Garrett, the Hon. Moulvie Abdul Jubbar, the Hon. Joy Prokash Lall, and the Mover.

STEAM-BOILERS AND PRIME-MOVERS.

The Hon. Mr. Reynolds moved for leave to introduce a Bill to amend Bengal Act III of 1879. He said:—This Act of 1879 is an Act

for the Inspection of Steam-boilers and Prime-movers, and extends to the town and suburbs of Calcutta and the town of Howrah. It does not apply to locomotive steam-engines or to steam-vessels. The Act provides that no boiler or prime-mover shall be used without a certificate granted under the Act, and in force at the time being; and it further provides for the appointment of Inspectors who, under section 5, are required carefully to examine boilers and prime-movers in every part thereof, and it requires the owner to afford all reasonable facilities for such examination, and all such information as may reasonably be required. But in point of fact, I understand that this provision of the law is not literally carried out; the inspection is practically limited to boilers and does not extend to prime-movers. The Boiler Commissioners some time ago brought the matter to the notice of the Government, and pointed out that the Act is not complied with, and that to carry out its provisions will cause very serious difficulty and inconvenience. They explain that, when a boiler has to be inspected, it can very easily be cooled down, and the examination and inspection can be made without interfering with the course of business in general, and the working of the mill or other factory. But this is not the case if the prime-mover has to be examined. The examination of the prime-mover, if it is to be anything more than a mere examination only in name, if it is to be such an examination as is referred to in section 5, will involve the stoppage of work, and will also possibly involve the taking of the engine to pieces, or at any rate the dismantling of it to a certain extent; and that will be a serious inconvenience, not only to mill-owners and persons of that kind, but to the community in general. They point out that this provision of the law will apply also to the engines and pumps used in the water-supply of Calcutta, and that if the examination of the prime-movers attached to them is to be made, the Public may some day find themselves without water; and they add that there is really no great necessity for a minute examination of prime-movers, and that if an accident happened to prime-movers it would not have anything like the same disastrous effect as the explosion of a boiler. They further state that the prime-movers are in charge of qualified Engineers who thoroughly understand every part of the machinery, and have every inducement in their own interests and reputation to see that their engines are really in good order. The Boiler Commissioners recommend that rules should be laid down for putting engines and boilers in charge of qualified persons, and that certificates of competency should be given to such persons by some authority recognized by Government. These opinions of the Boiler Commissioners were referred for the special opinion of various bodies of mill-owners and of the Chamber of Commerce, and the opinion of those bodies was unanimous—*first*, that there was no real necessity for the examination of prime-movers; and *secondly*, that such examination would cause very serious inconvenience and expense to the persons concerned. I had occasion, in connection with this subject, to look at the provisions of the corresponding Acts of the other Presidencies, and I found that the wording of the Bombay Act is very much the same as the wording of our own Act, and I understand that this

The Hon. Mr. Reynolds.

difficulty has not been felt in Bombay; but whether the examination in such detail as is required by our law is there carried out or not, I am not in a position to say. The Act of 1882, which was passed for British Burma, is of a very different character. It requires prime-movers to be examined just in the same way as the Bengal Act does, but it also provides for the granting of certificates of competency to the Engineer in charge, and declares that the certificate of the Engineer as to the condition of the engine shall be accepted when granted on such authority. The actual recommendation of the Boiler Commissioners is that the Act shall be modified by omitting the words "prime-mover" in those sections of the Act where it occurs. I think it may perhaps be a further question whether it will not be well to adopt the same system as in British Burma, and to retain power for the inspection of prime-movers, and at the same time give a certificate of competency to the Engineer in charge. That, however, is a matter which may be considered hereafter. The motion being now merely for leave to bring in a Bill, it involves only the recognition by the Council of the necessity for some legislation on this subject.

The motion was put and agreed to.

KIDDERPORE DOCKS.

The Hon. Mr. Reynolds moved for leave to introduce a Bill to enable the Commissioners for making Improvements in the Port of Calcutta to provide docks in the Port. He said:—I believe it is unnecessary to detain the Council with any lengthy history of the circumstances which have led to the proposal for the introduction of this Bill. Some of those present may remember the state of Calcutta before 1870, when the present Port Trust was established. At that time it is hardly too much to say that there were no jetties, no wharves, and no appliances for the landing and shipping of goods; but since the constitution of the present Port Trust in 1870 very great progress has been made. There are now eight jetties supplied with export and import warehouses, and having a large number of hydraulic cranes and steam cranes, and there is also a floating steam crane capable of lifting 30 tons. There is also a continuous line of wharves along the foreshore, and a tramway that connects the jetties with the Eastern Bengal Railway; and while giving all these advantages, the Port Commissioners have been able entirely to abolish port dues in Calcutta, and to effect a substantial reduction in the cost of pilotage, and at the same time to maintain the survey, buoyage, and lighting of the river in a more efficient state than has ever been done before. But with all their efforts, the Port Commissioners are unable to keep up with the growing requirements of the traffic. The eight jetties which have been provided afford accommodation to about 200 vessels in the year, but we require space for about five or six times that number. The gross tonnage of the Port has increased during the last five years in round numbers from about 1½ millions to 2 millions of tons; the exports have increased from 1¼ millions to 1¾ million tons; and the annual downward traffic of the East Indian Railway, which was under half a million tons during the five years ending with 1875, during the next period of five years reached nearly a million

tons, and at present, perhaps, if it has not actually reached it, must be near upon 1½ million tons. The further extensions of the railway system, some of which have already been constructed, some of which are in progress, and some of which still remain to be undertaken, will all tend to the same result—the result of pouring into Calcutta a daily increasing mass of goods, for the handling and transport of which new and extended appliances will be necessary. These considerations led the Government in 1882 to appoint a Committee to report on the advisability of constructing docks at Diamond Harbour to relieve the trade of the Port. The majority of that Committee reported in favour of the construction of docks at Diamond Harbour, but the mercantile members of the Committee opposed the scheme on the ground of the inconvenience that would arise to the ordinary course of business, owing to the distance of the docks some 35 or 40 miles from Calcutta. It appeared that those objections were felt, not only by the mercantile members of the Committee, but were also endorsed by the Chamber of Commerce and the mercantile community in general. The Government therefore resolved not to act on the recommendations of the majority of the Diamond Harbour Docks Committee, and in 1883 a fresh Committee—a joint Committee of the Port Commissioners and of the Chamber of Commerce—was appointed to consider the general question of extending and strengthening the accommodation for the shipping in Calcutta. That Committee submitted a very admirable and exhaustive report, in which they reviewed all the circumstances of the case. The first point which they considered was, whether it is desirable to extend accommodation by adding to the number of jetties, or by constructing docks, and for reasons set forth in their report, one of which is the greater protection afforded by docks against cyclones, they considered docks in every way preferable to adding to the number of jetties. Then there was the question where the docks should be constructed, and various sites were considered, and the conclusion of the Committee was that Kidderpore is the most favourable site for the proposed docks. The report of the Committee was submitted to several experts, both in England and this country; it was approved by the Government of Bengal, recommended by the Government of India, and has been sanctioned in all essential particulars by the Secretary of State. It having been determined then that docks should be constructed at Kidderpore, the question arose, what official or body of officers should be entrusted with the construction and management of the docks? and the Government had the choice of several alternatives; they might have kept the docks under the Marine Department of the Government itself, or they might have created a new body of Dock Trustees, or they might have entrusted the construction and management of the docks to the existing Port Commissioners. The decision the Government came to was, that the Port Commissioners should be entrusted with the duty, and perhaps I may be permitted to say, although a Port Commissioner myself, that this was determined upon owing to the confidence which the management of the present Trust by the Port Commissioners has excited both in the Government and the mercantile community in general, but it was also almost a necessary conclusion in consequence

The Hon. Mr. Reynolds.

of the intimate connection between the existing works of the Port Commissioners and their proposed extension by the construction of new docks. The new docks and the present jetties are intended to be connected by a tramway, and the whole will be worked as one concern by the Port Trust. Then a further difficulty arose, viz. that the Government were advised that the Port Commissioners, under the existing law, had no power to construct docks. The hon. and learned Advocate-General (Mr. Paul) came to the conclusion that the construction of docks was clearly outside the provisions of Act V of 1870, and as the Port Commissioners are unable to construct docks, it is clearly out of their power to raise a loan for the purpose. It was therefore considered necessary to introduce a Bill to enable the Port Commissioners to construct docks and raise a loan for that purpose. The proposed Bill has been circulated, and is in the hands of Hon. Members, and I will just point out that it is nothing more than an enabling measure; it enables the Commissioners to construct and maintain docks, to raise a loan for the purpose, and to levy tolls and charges which have been approved by the Local Government and published in the *Calcutta Gazette*. And with regard to the form which the measure has assumed, I may explain that it was intended at first to introduce a consolidating Act bringing together all the various provisions of law relating to the Port Commissioners into one enactment; and that, no doubt, is a work which must be undertaken before long. Act V of 1870 has already four amending Acts, and it is very desirable to consolidate them; but such a consolidation of the law would involve a great deal of delay. It is therefore now proposed only to pass a short enabling measure to provide for the present difficulty.

As a summary of the whole question, I believe I cannot do better than read to the Council, if it will permit me to do so, the concluding words of the despatch in which the Government of India recommend the adoption of this scheme to the Secretary of State. They said:—

"In conclusion, we would observe that the pressing need of improved facilities for the increasing trade of Calcutta cannot be too strongly insisted upon. The trade is rapidly expanding, and there is probably no public work on this side of India at the time which can be said to be as important as the Calcutta Port Improvements. The construction of docks will undoubtedly give great facilities, now wanting, to Calcutta merchants in the prosecution of their business, the process of loading and unloading cargoes will be considerably expedited, goods will be better and more conveniently warehoused, and the sorting and cleaning of the wheat before shipment will be promoted; while the general concentration of business will be a welcome relief to those concerned with trade and shipping. The measure now proposed is formally supported by an absolute consensus of official and non-official opinion, and has the entire approval of the local commercial Public. We trust, therefore, that we may be favoured with sanction to its being undertaken at the earliest practicable date."

These are the grounds on which the Government of India recommended the adoption of this scheme, and it is on these grounds that I now ask the Council to grant leave for the introduction of the proposed Bill.

The motion was put and agreed to.

His Honor the President said:—I think it necessary to explain that it is desirable that the form in which the Bill has been drawn up should be considered both by the Local Government and also by the Government of India; therefore, before we proceed to the next motion on the paper to introduce the Bill, we should submit the papers on the subject, and the Bill which has been drafted, for the consideration of the Government of India. I hope their approval of the form in which the Bill has been prepared will be received in time to enable us to proceed with the Bill at the next meeting of the Council. Therefore the two remaining motions in the name of the Hon. Mr. Reynolds will be postponed to the next meeting.

The Council was adjourned to Saturday, the 3rd January 1885.